

Vermont Agency of Transportation



Local Transportation Facilities Guidebook Appendices

Revised April, 2009

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APPENDIX A

Sample Summary of Costs Submittal

Submitting Name (Municipality)
 Project Name, Number, Expenditure Account – Location
 Invoice Number
 Invoice Period

Municipal Charges

	Contract Amount	Total Billed To Date	Previous Invoice	Current Invoice
Direct Labor	\$135,200.00	\$800.00	\$100.00	\$700.00
Direct Cost	\$4,800.00	\$629.15	\$10.00	\$619.15
Indirect Costs ¹		\$945.00	\$0.00	\$945.00
Subtotals	\$140,000.00	\$2,374.15	\$110.00	\$2,264.15

Direct Labor Break Down

	Hours	Rate	Total
John Doe	40	\$10.00	\$400.00
Jane Doe	20	\$15.00	\$300.00
Direct Labor Total			\$700.00

Direct Costs Break Down

Blue Print Co.	\$600.00
Bob's Film Developing	\$19.15
Direct Labor Total	\$619.15

Indirect Costs¹ Break Down

Direct Labor	Overhead Rate ¹	Total
\$700.00	1.35	\$945.00
Total Indirect Costs		\$945.00

¹ Indirect Costs to the municipality and Overhead Rates must be approved by VTrans in advance.

APPENDIX B

Invoice Spreadsheet Submittal

Project Name & Number**100-PRELIMINARY ENG.**

Date

Payment Option A

P.E. MLA: \$ -

	INVOICE #	AGR. AMOUNT	TOTAL BILLED TO DATE	PREVIOUS BILLED TO DATE	CURRENT INVOICE
I. Municipal Charges			\$ -	\$ -	\$ - \$ -
II. Consultant Charges		\$ -	\$ -	\$ -	\$ -
Subtotal					\$ -
TOTAL			\$ -	\$ -	\$ -
PE MLA BALANCE		\$ -			
PE %MLA REMAINING		#DIV/0!			

200-RIGHT OF WAY**ROW MLA:** \$ -

	INVOICE #	AGR. AMOUNT	TOTAL BILLED TO DATE	PREVIOUS BILLED TO DATE	CURRENT INVOICE
I. Municipal Charges			\$ -	\$ -	\$ - \$ -
II. Consultant Charges		\$ -	\$ -	\$ -	\$ -
Subtotal					\$ -
TOTAL			\$ -	\$ -	\$ -
ROW MLA BALANCE		\$ -			
ROW %MLA REMAINING		#DIV/0!			

300 - CONSTRUCTION**CONST. MLA:** \$ -

	INVOICE #	AGR. AMOUNT	TOTAL BILLED TO DATE	PREVIOUS BILLED TO DATE	CURRENT INVOICE
I. Municipal Charges			\$ -	\$ -	\$ - \$ -
II. Consultant Charges		\$ -	\$ -	\$ -	\$ -
Subtotal					\$ -
TOTAL			\$ -	\$ -	\$ -
CONSTRUCTION MLA BALANCE		\$ -			
CONSTRUCTION %MLA REMAINING		#DIV/0!			

Appendix C

Example RFP & SOW for MPM

Example RFQ & SOW for Design Engineer

Example Request for Proposals for Municipal Project Manager

Date

RE: Request for Proposals

Dear Ladies & Gentlemen:

The Town of _____ is requesting proposals for project management services on a project funded in part by the Federal Highway Administration and the Vermont Agency of Transportation. The specific duties are outlined in, and all work will be accomplished in accordance with the attached Scope of Services.

The Town intends on selecting one proposer to perform the services, which are expected to extend through _____. The rates that are proposed will be in effect for the complete term of the contract.

All questions related to this request for proposals shall be addressed to _____ at _____ or in writing at _____ or by FAX at _____. Any questions received, other than routine ones, will be answered and distributed to all proposers.

In order to be considered responsive to this request for proposals, each proposal shall conform to the following requirements. The proposer shall:

- Submit four (4) copies of the technical proposal in a sealed envelope to the name and address indicated above prior to _____
- Submit a separate copy of the cost proposal in a separate envelope. Provide in the proposal hourly rates for all classifications of personnel who may be utilized for the services requested. These rates shall be presented and broken down by direct labor cost and indirect cost by percentage or by hourly rate.

The proposal will be evaluated considering the following factors:

- Familiarity with applicable state and federal regulations or demonstrated experience with similar regulations which would indicate an ability to understand unfamiliar regulations.
- Demonstrated experience with public participation and meeting facilitation.
- Demonstrated experience with financial management, particularly with regard to development of individual projects.
- Demonstrated experience with preparing requests for proposals / qualifications and scopes of services for hiring consultant services, with preparing, executing and managing such contracts and/or experience with similar type procurement.

- Demonstrated experience with construction projects from start to finish, including administrative oversight.

OPTION FOR MUNICIPALITY: Insurance requirements are at the discretion of the municipality. If required, list types and minimum amounts of coverage required.

If any proposer is aggrieved by the proposed award of the contract, they may appeal in writing to _____ . The appeal must be postmarked within fourteen (14) calendar days following the date of the written notice to award the contract.

All proposals become the property of the Town upon submission. The cost of preparing, submitting and presenting a proposal is the sole expense of the proposer. The Town reserves the right to reject any and all proposals received as a result of this solicitation, to negotiate with any qualified source, to waive any formality and any technicalities or to cancel in part or in its entirety this request for proposals if it is in the best interest of the Town. This solicitation of proposals in no way obligates the Town to award a contract.

Example Scope of Work for Municipal Project Manager

The Town of _____ has entered an agreement with the Vermont Agency of Transportation to develop a project to [PROJECT DESCRIPTION]. This project is funded in part by the Federal Highway Administration and the Vermont Agency of Transportation. Accordingly, all aspects of project development, from developing a purpose and need statement to constructing the project, must conform to federal and state regulations. The Town has agreed to provide the project management. The Agency of Transportation will designate an individual to assist the Town in meeting the necessary requirements and ensure that the agreed upon project funds are allocated for project use.

The Town of _____ has decided to contract services to fulfill its responsibilities with regard to project management. Those who assume such duties will herein be referred to as the Municipal Project Manager or MPM. VTrans will be providing oversight of project development as well as developing guidance relative to the various aspects of project development. As part of this guidance, VTrans has developed a “Project Development Process” chart that provides an overview of the process. The duties of the MPM will include:

- Responsibility for coordinating all project activities and monitoring all aspects of project development on behalf of the municipality while acting as liaison between the Town, VTrans, consultants and/or contractors as necessary. The MPM is responsible for ensuring adherence to federal and state rules and regulations relative to developing and constructing a project.
- Review and monitor a master schedule to coordinate all activities necessary for: completing the project design, coordinating all necessary permits and approvals, relocating conflicting utilities, acquiring and clearing all rights-of-way and preparing bid documents.
- Prepare Request for Proposals / Qualifications and Scope of Services for any and all consulting needs subject to VTrans approval. Examples are available. Act as member of selection team and assume responsibility for documenting this process.
- Ensure that all provisions of consulting/contracting contracts are met and submitted on time and within cost limits. Will be responsible for any and all contract administration.
- Review all project invoices for accuracy, completeness and reasonableness. These invoices will then be forwarded to VTrans with a statement attesting to the previous statement and a request for reimbursement.
- Provide regular progress reports to the Town and to VTrans with invoices.

- Identify, obtain approval of and implement procedures for facilitating development of the project.
- Arrange for, participate in and provide follow-up documentation of all project-related discussions, meetings or hearings.
- Monitor that any permit mandates, conditions and stipulations are incorporated in the project design.
- Seek approval for, document and obtain any waivers of design criteria if deemed necessary.
- Assume responsibility for the review of project plans and documents. Within the constraints of the review, the MPM will be responsible for exploring design options to improve constructability, reduce costs and expedite construction.
- Assist the municipality in all right-of-way issues. The MPM will provide or obtain certification to VTrans that the right-of-way issues have been resolved in accordance with all applicable federal and state laws and regulations.
- Assist the municipality with utility and/or railroad issues for the project. Provide assurances to VTrans that federal and state laws and regulations have been complied with.
- Review the project for compliance with all federal, state and local laws, ordinances, regulations and permit requirements, including environmental permitting. Provide certification to VTrans attesting that all requirements have been met and all permits have been obtained. **Note:** An overview of the Environmental Permitting process may be requested through the LTF Project Supervisor.
- Secure certification that the design meets all applicable standards, codes and requirements for design and public safety standards.
- Secure and submit to VTrans documentation by an engineer registered under the laws of the State of Vermont to practice structural or civil engineering attesting to the required structural capacity requirements for all bridges. Provide certification from an engineer of adherence of all traffic control devices per the Manual on Uniform Traffic Control Devices.
- Secure statement to VTrans as to which permits, agreements and clearances have been secured and which ones are not applicable to the project.

- Assist the municipality in preparing a bid package for construction, in conformance with federal and state regulations. Once bids are received and opened, assist municipality in determining whether apparent low bidder is responsible. Prepare contract for municipality with low bidder.
- Provide project administration of project during construction.
- Secure certification to VTrans that the project was constructed as designed.
- Keep a master project file, to become the possession of the Town once the project is completed. Should any additional information be necessary to meet any reviews of the project, such as an audit, the MPM will be responsible for providing or securing this.

Example Request for Qualifications for Design Engineer

REQUEST FOR QUALIFICATIONS

Engineering Studies, Design and Permitting

[PROJECT NAME & NUMBER]

The Town of [] is requesting Statements of Qualifications (SOQ)s from engineering firms (Consultants) for engineering services for [PROJECT DESCRIPTION] in the Town of []. The Town is seeking a Consultant with expertise in designing, engineering and permitting such a project as outlined in the []. The procurement process for selection of the Consultant will be a Qualifications Based Selection (QBS). We are not seeking a detailed scope of work or cost proposal at this time. The successful Consultant will be selected based upon their demonstrated ability to provide the highest qualified team to achieve the goals of the project through their SOQ and possible interview with the selection committee.

Project Development

Through a cooperative agreement between the Town and the Vermont Agency of Transportation (VTrans), the Town will manage the project while the VTrans Local Transportation Facilities Unit (LTF) administers funding and reviews project material for compliance to Federal and State standards and policy's as laid out in the LTF Guidebook.

The owner of the project is the Town and the sole authority for the Consultant during the project rests with the Town of [] Selectboard.

The Selectboard has hired a Municipal Project Manager (MPM), [NAME OF MPM] & [ADDRESS].
Phone

[] or email []. The consultant will work directly with the Municipal Project Manager throughout the development process.

The project will be developed according to the guidelines established by the VTrans Local Transportation Facilities Program. Questions related to the LTF project development process can be answered by VTrans Project Supervisor, [NAME], VTrans, LTF, One National Life Drive, Montpelier, VT 05633-5001 – phone (802) [NUMBER] or email [].

The lead local contact and administrative support for the project is [NAME], Town of [], [ADDRESS] – phone (802) [NUMBER] or email [].

All technical questions related to this RFQ should be directed to the MPM.

Project Requirements

All work will be accomplished in accordance with the following:

- VTrans CADD Manual / MicroStation format, if necessary.
- Consultant Contract Provisions dated October 1998
(from LTF Guidebook on Agency's web site).

- LTF Guidebook
- LTF Project Development Process

Project Description

The purpose of the [BRIEF PROJECT DESCRIPTION]. The project encompasses [PROJECT LOCATION].

The project will include the following:

Several identified key elements important to this project are:

History of the Project

Qualifications - Based Selection Process (QBS)

Engineering services for this project will be procured through a qualifications-based selection process (QBS) as determined by the Brooks Act (Public Law 92-582). This Request for Qualifications (RFQ) is a solicitation for a Statement of Qualifications (SOQ) from qualified firms. We are not seeking a scope of work or cost proposal at this time. For more information on the QBS process please contact VTrans, LTF, One National Life Drive, Montpelier, VT 05633-5001.

Submission Requirements

Please furnish six (6) copies of the Statement of Qualifications with pages numbered consecutively.

Statement of Qualifications (SOQ) should be a narrative proposal that best represents your firm's qualifications to perform planning, permitting, designing and engineering services for the [PROJECT NAME]. SOQ's should include the proposed project team, technical abilities, examples of previous projects, references, a proposed schedule and any other information that you consider important. SOQ's should also include provisions for the archeological and historic review components of the project and qualifications of all proposed sub-consultants.

We are not seeking a detailed scope of work or cost proposal at this time.

All Statements of Qualification will become the property of the Town upon submission. The cost of preparing, submitting and presenting is the sole expense of the firm. The Town reserves the right to reject any and all Statements of Qualification received as a result of this solicitation, to waive any formality and any technicalities or to cancel this RFQ in part or in its entirety if it is in the best interests of the Town. This Request for Qualifications in no way obligates the Town to award a contract.

Submission Schedule

Statements of Qualifications (SOQ) are to be submitted to:

SOQ's must be received at the Town offices no later than **4:00 p.m. on [DATE]**. SOQ's received after the deadline will not be accepted. Questions will be answered up to [DATE], after which a compiled list of all questions asked and answers will be furnished to all interested consultants. It is the goal of the Town to review the Statements of Qualifications and the Selection Committee to meet collectively and choose the three most qualified firms within three weeks of the submission deadline. Interviews with selected consultants may begin shortly afterward and the selection of the most qualified firm and negotiations with that firm is anticipated to conclude sometime in [DATE]. An anticipated start date for the project would be [DATE]. Notification to all responding firms of the selection will follow immediately upon the decision of the Town of [] Selectboard.

Selection

The Selection Committee includes the MPM, Town & VTrans Project Supervisor. They will review and evaluate each statement of qualifications, based on the criteria below. Firms will then be ranked accordingly. The Selection Committee may interview the top three firms if it is deemed necessary in order to choose the highest qualified firm. Upon completion of any interviews, a scope of work and cost proposal will be required and negotiations will begin with the top-ranked firm. If a scope of work and fee cannot be agreed upon within a reasonable time, negotiations with the top-ranked firm will be concluded and negotiations with the second-ranked firm will be initiated. If a satisfactory contract is not worked out with this firm, then this procedure will be continued until a mutually satisfactory contract is negotiated

Criteria for Selection

The following criteria, as a minimum, will be used to evaluate qualifications:

Review Criteria	Weight	Maximum Points	Weighted Points
Understanding of the Project	3	5	15
Knowledge of the Project Area	2	5	10
Availability of Technical Disciplines	4	5	20
Qualifications / Experience of Proposed Staff	2	5	10
Ability to Meet Schedules & Budgets	2	5	10
Past Performance on Similar Projects	5	5	25
Knowledge of Federal and State Standards and Policies	2	5	10
TOTAL			100

Contract Requirements

The Consultant, prior to being awarded a contract, shall apply for registration with the Vermont Secretary of State's Office to do business in the State of Vermont, if not already so registered. The registration form may be obtained from the Vermont Secretary of State, 109 State Street, Montpelier, VT 05609-1104. The fee is \$20.00. The telephone number is (802) 828-2386. The contract will not be executed until the Consultant is registered with the Secretary of State's Office. The successful Consultant will be expected

to execute sub-agreements for each sub-consultant named in the proposal upon award of this contract.

A completed copy of the Agency's Form AF38 will also be required prior to being awarded a contract. One copy of this financial information for the prime consultant as well as one copy of the financial information for each firm designated as a sub-consultant. The information submitted shall meet the requirements of Form AF38 at a level commensurate with the anticipated magnitude of each sub-consultant's proposed work. Complete audited financial statements, balance sheets, etc. **do not** need to be submitted, if that information is on file with VTrans. Please note in the SOQ if this information is on file with VTrans.

All prospective consultants and sub-consultants must be on the VTrans qualified list, or found eligible for addition to that list.

The Consultant awarded this contract shall be responsible for furnishing the Town with independently prepared, properly supported indirect cost rates in accordance with the cost principles contained in 48 CFR Part 31 for all time periods covered by the contract.

It is expected that all consultants will make good faith efforts to solicit DBE sub-consultants.

Prior to beginning any work, the Consultant shall obtain Insurance Coverage in accordance with the Consultant Contract Provisions located in the Local Transportation Facilities Guidebook. The certificate of insurance coverage shall be documented on forms acceptable to the Town.

Appeal Process

If the award of the contract aggrieves any firms, they may appeal in writing to the Town of [] Selectboard, [ADDRESS]. The appeal must be post-marked within fourteen (14) calendar days following the date of written notice to award the contract. Any decision of the Town Selectboard is final.

All questions related to this RFQ shall be directed to the MPM, [NAME] [ADDRESS]. Phone (802) [] or email []. Other than very routine questions, all questions will be answered in writing and distributed to all prospective firms.

Sincerely,

[NAME], Municipal Project Manager

Example Scope of Work for Design Engineer

General Scope of Work

- **Background and Reference Materials:** This scope of work covers all the steps noted in the *VTrans Local Transportation Facilities Guidebook dated January, 2009*. Steps previously completed as part of the [] are so noted.
- **Project Limits:** The project begins on [PROJECT DESCRIPTION].
- **Coordination/Documentation:** All project meetings and telecommunications will be documented and sent to the MPM and possibly others as directed. A project file will be maintained with all pertinent correspondence.
- **Project Status Updates:** Monthly project updates will be generated and sent by email to the Municipal Project Manager (MPM), LTF Project Manager (LTFPM), the Town, Project Team and any other individuals we are asked to add to the copy list.
- **Contract Updates:**

PHASE A-PROJECT DEFINITION WORK TASKS

1. **Pre-design Conference:** An initial meeting with the MPM, LTFPM and Project Team took place on [DATE] where the anticipated scope of services was discussed and clarified.
2. **Local Concerns Meeting:**
3. **Data Collection:**

Topographic Survey will be collected by [] and followed by the plotting of a base plan. Prior to the survey, individual property owners will be notified by letter written on Town letterhead which introduces the surveyors and informs the property owners of the survey schedule. The survey data will include the utility poles and existing culverts as well as any utilities that are present within the immediate project limits.

The survey will be performed to VTrans Standards. The survey data will be imported into MicroStation using current VTrans Standards and will create a 3-dimensional digital terrain model (DTM) as well as an annotated base plan showing all the existing detail.

Three copies of the survey plots will be provided to the MPM at a 1" = 50' scale. After the initial plot, an engineering field review will be completed to verify the survey plot and to identify additional engineering related survey needs. The existing Right-of-Way (ROW) will be depicted on the plan. Approximate existing property lines and owners names will be added to the base plan based on available electronic tax map information.

After the wetlands are flagged, a second survey request will be developed to collect the wetland flag information and other data along the project that is needed for engineering purposes. The survey plan and DTM will then be updated.

Updated Traffic/Accident Information will be obtained. Accident information will also be solicited from the Town and State. This information will be helpful in determining the design parameters.

Soils Investigations/Pavement Treatment Options:

Critical Environmental Resources and Permit Requirements: Complete field research and a site review to identify potential constraints such as historic districts, structures or properties, hazardous waste, archaeologically sensitive areas and wetlands. If archaeological field investigations become necessary, a separate budget request will be made at the time the required scope is identified. Wetlands will be flagged in the spring. Act 250 and other permit related needs will be investigated to determine the implications related to various design options, cost and the project schedule.

4. **Initiate Conceptual Design:** Upon completion of the field survey, conceptual design will be completed to identify the major project design challenges. This work will include creating a template that will allow for modeling and developing proposed slope limits then completing several critical cross sections to depict potential impacts to utility poles, trees, fences etc that will need to be addressed. In addition, consideration will be given to potential storm water treatment related grading that will further extend the slope limits in certain areas.
5. **Town and Utility Officials Meeting:** Arrange a meeting with key town officials. A representative(s) from the affected utility companies will need to be invited. The meeting purpose will be to discuss project challenges and agree upon resolutions.
6. **Public Update Meeting:** A public meeting will be held to update abutters and other interested parties on the project status and to get input on other issues that will be considered during the design process. A Notice of the Meeting will be created and mailed to the abutters. The Town will be asked to update the abutter mailing list prior to the notices being sent out. The Town will be responsible for advertising the meeting in local media.
7. **Conceptual Plans Development:** Conceptual Plans will be developed according to the LTF guidelines. During the plans development, it is anticipated that two meetings will be required with the MPM, LTFPM, Town Officials and other affected parties, if necessary to present various design options to address items such as pavement treatment, tree impact mitigation/avoidance options and other design related options for consideration. Since utility pole relocations may impact sensitive resources that could affect decision making, we propose to depict the anticipated relocations in sensitive areas on the Conceptual Plans. In addition, we propose to address storm water treatment on the Conceptual Plans. Coordination with ANR officials will be completed early and that input will be used as a basis for the design. Protection measures for trees that can be saved and mitigation (plantings) for tree removals will be shown on the plans. Environmental permit related issues associated with each option as well as a detailed construction cost estimate will be available to facilitate decision making. Once the plan package is completed, it will be submitted along with supporting documentation to the MPM, VTrans LTF Project Manager and the Town for review and comment. After comments are received, a Comment Review Meeting will be held to agree upon resolutions. The agreed to resolutions will then be incorporated into the Conceptual Plans. A set of Revised Conceptual Plans will then be submitted. A Public Information Meeting will then be scheduled to present the project. A Notice of the Meeting will

be created and mailed to the abutters. The Town will be asked to update the abutter mailing list prior to the notices being sent out. The Town will be responsible for advertising the meeting in local media. Design Engineer will prepare meeting graphics and lead the presentation. It is assumed that any potential plan revisions associated with meeting input will be incorporated into the 60% Plans, as part of Phase B.

Plans and supporting data comparing design options for work session meetings.

- Meeting memos.
- Conceptual Plans (Title Sheet, Typical Sections including the proposed pavement and substructure treatment, Base Plan and Profile Sheets with proposed layout, Cross Sections, Conceptual Traffic Control).
- Summary of Conceptual Plan Comments with suggested resolution for discussion and updating at the Comment Review Meeting.
- Detailed Construction Cost Estimate.
- Draft list of abutters for Town to update.
- Public Notice of the meeting.
- Public Meeting memo.

8. **Environmental Impact Resolution:** After acceptance of the Conceptual Plans by the Town, we will proceed with submitting documentation necessary to obtain the National Environmental Policy Act of 1969 (NEPA) permit, which for this project is expected to be a Categorical Exclusion Document. The submittal will include the standard Environmental Analysis Sheet. The VTrans Environmental Section will be responsible for submitting the environmental documentation to the FHWA for an expected categorical exempt determination. In addition, we will obtain the Act 250 Jurisdictional Determination.

PHASE B-PROJECT DESIGN WORK TASKS

1. **Preliminary (60%) Plans:** Once the environmental determination has been made, the plans will be detailed further as described in the LTF Guidelines. This is a major design step as it will include detailed drainage design, including the formal storm water discharge permit application, landscape design as well as plan, cross section and profile details. Provide technical information for use in preparing the remaining State and Federal permits required for the project. No formal submittal of plans for review will be required. Copies of the plans will be made and sent to the utility companies.
2. **Utility Relocation:** In the conceptual phase, we initiated early coordination with the utility companies to plan out the anticipated relocation needs. At this time, 60% Plans will be sent to the utility companies who will be asked to show their detailed relocations including anticipated guy poles and wires. The relocations will be added to the plans and will begin to assess potential impacts to private property and sensitive resources. Once the utility relocations are final, we will draft Utility Relocation Agreements in accordance with the process outlined in the LTF Guideline.
3. **Property Owner Meetings:** Contact the owners and arrange for individual meetings preferably at a public location near the project such as the Town Office or the Library. If preferred by the property owner, the meeting could also be held on site. Invitees to the individual property owner

meetings will include a representative from each utility company, the MPM, LTFPM, a representative from the Town and a Design Engineer representative able to explain the proposed improvement and any associated impacts to the subject property. The representative will also explain the ROW process and ask ROW related questions to complete the Property Owner Report. This information will include a request for each property owner to identify the approximate location of their well and septic system on the plan. Input from the property owners will be received and documented. Plan revisions will be made as agreed to by the MPM, LTFPM and the Town.

4. **Re-evaluation of the Categorical Exclusion:** It is assumed that you will need to update the CE to reflect revisions to the project scope and related impacts or proposed mitigation since it was first submitted and approved. This updated document will be forwarded to the LTFPM for processing by the VTrans Environmental Section.
5. **Right-of-Way Acquisition:** Rights to construct the improvement will be obtained following the process as outlined in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. Since we will not be able to estimate the magnitude of this work effort until Phase A is complete, we are not including this item in the work scope at this time. At the completion of Phase A, we will generate a proposed scope of work and cost estimate to complete these services.
6. **Abstract of Title:** An abstract of the title is required for all acquisitions. Since we will not be able to estimate the magnitude of this work effort until Phase A is complete, we are not including this item in the work scope at this time. At the completion of Phase A, we will generate a proposed scope of work and cost estimate to complete these services.
7. **Right-of-Way Plans:** ROW plans are required for this project. Since we will not be able to estimate the magnitude of this work effort until Phase A is complete, we are not including this item in the work scope at this time. At the completion of Phase A, we will generate a proposed scope of work and cost estimate to complete these services.
8. **Appraisals/Appraisal Review/Negotiation/Certification Letter:** All of these steps will be completed in a manner consistent with the requirements as outlined in the LTF Guidebook. Since we will not be able to estimate the magnitude of this work effort until Phase A is complete, we are not including this item in the work scope at this time. At the completion of Phase A, we will generate a proposed scope of work and cost estimate to complete these services.
9. **Final (85%) Plans:** The project plans and associated documentation will be updated to incorporate changes required by the permitting agencies, the ROW process and the final utility relocations. The Final Plans with an updated list of items, quantities, a cost estimate and a Quality Control and Quality Assurance (QA/QC) plan will be submitted to the MPM and LTFPM for review and concurrence. Any requested revisions will be incorporated.
10. **Municipal Certifications:** The Town will complete submittal of all required certifications to VTrans including but not limited to ROW and Utility as well as statements of compliance with applicable local, state and federal regulations, permits, agreements and clearances.

11. **Contract Plans (100%):** These plans will incorporate all comments received on the 85% plans. In addition, contract specifications, special provisions and the final estimate will be completed and submitted to the MPM and LTFFPM.

PHASE C-CONSTRUCTION SERVICES WORK TASKS

1. **Plans, Specifications and Estimate (PS&E):** These materials are a product of the design process.
2. **Procurement Procedures for Construction Services:** After VTrans issues written approval of the PS&E and notice to proceed, the Town will proceed with the procurement of construction services in a manner consistent with the LTF Guidelines.
3. **Invitation for Bids:** Town and their design engineer will put together the Invitation for Bids (IFB). The IFB Checklist will be used to ensure that all materials are in place before the invitation is issued. The Bid Packages will be sent to the MPM.
4. **Bid Opening/Bid Analysis/Authorization to Award Contract:** Hold a bid opening, perform bid analysis and assemble a bid summary that lists the names of all the bidders and the amounts of the associated bids. This summary along with a copy of the bid analysis and a written statement by the Town that the Town intends to award the contract to a specific contractor, with a concurrence line, will be forwarded to the VTrans Project Manager for review and concurrence. Upon receiving concurrence, the Town will be authorized to enter a contract with the low bidder.
5. **Preconstruction Conference:** Design Engineer will send a representative to this meeting that will be chaired by the Construction Resident Engineer.
6. **Oversight by Municipality:** It is anticipated that the construction cost will exceed \$250,000. Therefore, the Town will be responsible for providing project oversight, most likely through the use of a consultant utilizing standard Procurement Procedures. Design Engineer will remain available to provide design engineering services which may include shop drawing review, addressing field changes and attending the final inspection.

Appendix D

MPM Contract Provisions

(Note: To be used as contract attachment to MPM contract.

MUNICIPAL PROJECT MANAGEMENT CONTRACT ATTACHMENT:

CONTRACT PROVISIONS

(UPDATE COMING SOON)

Includes:

- 1. INDEMNIFICATION**
- 2. INSURANCE**
- 3. COMPLIANCE WITH LAWS**
- 4. CONTRACTUAL AGREEMENTS**
- 5. OPERATIONAL STANDARDS**
- 6. PAYMENT FOR SERVICES RENDERED**

MAY, 1998

CONTRACT PROVISIONS:

Wherever used, abbreviations may be used in place of a word or phrase and definitions may be used to interpret statements for the meaning of words phrases or expressions. The intent and meaning for abbreviations and definitions shall be interpreted as herein set forth:

AASHTO	American Association of State Highway and Transportation Officials
AGC	Associated General Contractors of America
AIA	American Institute of Architects
ANR	Agency of Natural Resources
ANSI	American National Standards Institute
ASCE	American Society of Civil Engineers
AWS	American Welding Society
CADD	Computer Aided Drafting and Design
CES	Consultant Engineering Services
CFR	Code of Federal Regulations
DOT	United States Department of Transportation
EEO	Equal Employment Opportunity
EIS	Environmental Impact Statement
EDM	Electronic Data Media
FAA	Federal Aviation Administration
FAR	Federal Acquisition Regulation
FHWA	Federal Highway Administration, U.S. Department of Transportation
FRA	Federal Railroad Administration
FSS	Federal Specifications and Standards (General Services Administration)
FTA	Federal Transit Administration
SIR	Self Insured Retention
U.S.C.	United States Code
USEPA	United States Environmental Protection Agency
VAOT	Vermont Agency of Transportation
VOSHA	Vermont Occupational Safety and Health Act
VSA	Vermont Statutes Annotated

1. INDEMNIFICATION

The Municipal Project Manager agrees, to the fullest extent permitted by the law, that it shall indemnify and hold harmless the Municipality, its officers, agents and employees from liability for damages to third parties, together with costs, including attorneys fees, incurred in defending such claims by third parties, to the extent such liability is caused by the negligent or intentional acts, errors, or omissions of the Municipal Project Manager, its agents or employees, committed, in the performance of professional services to be provided by the Municipal Project Manager under this Agreement.

The Municipality is responsible for its own actions. The Municipal Project Manager is not obligated to indemnify the Municipality or its officers, agents and employees for any liability of the Municipality, its officers, agents and employees attributable to its, or their own, negligent acts, errors or omissions.

In the event the Municipality, its officers, agents or employees are notified of any claims asserted against it or them to which this Indemnification clause may apply, the Municipality or its officers, agents and employees shall immediately thereafter notify the Municipal Project Manager in writing that a claim to which the Indemnification Agreement may apply has been filed.

2. INSURANCE

GENERAL: Prior to beginning any work the Municipal Project Manager shall obtain Insurance Coverage as stated in the Request for Proposals. The certificate of insurance coverage shall be documented on forms acceptable to the Municipality. Evidence of compliance with minimum limits and coverages, evidenced by a certificate of insurance showing policies and carriers that are acceptable to the Municipality, must be received prior to the effective date of the Agreement. The insurance policy (ies) shall provide that insurance coverage cannot be canceled or revised without fifteen (15) days' prior notice to the Municipality. In the event that this Contract extends to greater than one year, evidence of continuing coverage must be submitted to the Municipality on an annual basis. Certified copies of any insurance policies may be required.

No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Municipal Project Manager for the Municipal Project Manager's operations. These are solely minimums that have been developed and must be met to protect the interests of the Municipality.

AUTOMOBILE LIABILITY: The Municipal Project Manager shall carry automobile liability insurance covering all motor vehicles, including owned, non-owned and hired, used in connection with the agreement. Each policy shall provide coverage with a limit not less than: \$1,000,000 - Combined Single Limit

3. COMPLIANCE WITH LAWS

GENERAL COMPLIANCE WITH LAWS: The Municipal Project Manager shall comply with all applicable Federal, State and local laws.

Provisions of the Agreement shall be interpreted and implemented in a manner consistent with each other and using procedures that will achieve the intent of both parties. If, for any reason, a provision in the Agreement is unenforceable or invalid, that provision shall be deemed severed from the Agreement, and the remaining provisions shall be carried out with the same force and effect as if the severed provisions had never been a part of the Agreement.

ENVIRONMENTAL REGULATIONS: Any Contract in excess of one hundred thousand dollars shall comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. Section 1857(h)), Section 508 of the Clean Air Act (33 U.S.C. Part 1368), Executive Order 11738, and Environmental Protection Municipality regulation (40 CFR Part 15), that prohibit the use, under non-exempt Federal Contracts, grants or loans, of facilities included on the EPA list of Violating Facilities. The provisions require reporting of violations to the grantor, Municipality and to the USEPA Assistant Administrator for Enforcement (EN-329).

CIVIL RIGHTS and EQUAL EMPLOYMENT OPPORTUNITY: During performance of the Agreement, the Municipal Project Manager will not discriminate against any employee or applicant for employment because of race, age, color, religion, sex, national origin, physical disability or veteran status.

The Municipal Project Manager shall comply with the applicable provisions of Title VI of the Civil Rights Act of 1964 as amended, Executive Order 11246 as amended by Executive Order 11375 and as supplemented by the Department of Labor regulations (41 CFR Part 60). The Municipal Project Manager shall also comply with the rules, regulations and relevant orders of the Secretary of Labor, Nondiscrimination regulations 49 CFR Part 21 through Appendix C, and Regulations under 23 CFR Section 710.405 (b) . Accordingly, all subcontracts shall include reference to the above.

The Municipal Project Manager shall comply with all the requirements of Title 21, VSA, Chapter 5, Subchapter 6 and 7, relating to fair employment practices to the extent applicable. A similar provision shall be included in any and all subcontracts.

DEBARMENT CERTIFICATION: When signing a Contract in excess of twenty five thousand dollars, the Municipal Project Manager certifies under the penalty of perjury as directed by Federal laws (48 CFR 52.209-5), that, except as noted in the Agreement, the Municipal Project Manager or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of federal funds:

- (a) is not currently under suspension, debarment, voluntarily exclusion or determination of ineligibility by any Federal agency;
- (b) has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past three (3) years;
- (c) does not have a proposed debarment pending; and
- (d) has not been indicted, convicted, or had a civil judgment rendered against him/her by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

Exceptions will not necessarily result in denial of the Contract but will be considered in determining the Municipal Project Managers responsibility. The Agreement shall indicate any exception and identify to whom or to what Municipality it applies and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

Exceptions shall be noted in the Contract:

LOBBYING: For any Agreement exceeding one hundred thousand dollars, the Municipal Project Manager certifies by signing the Agreement, that to the best of their knowledge and belief on behalf of their signature:

- (a) No Federal appropriated funds have been paid or will be paid by or to any person influencing or attempting to influence an officer or employee of a government agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or the extension, renewal, amendment or modification of any Federal Contract grant, loan or cooperative Agreement.
- (b) They will complete and submit, in accordance with its instructions, Standard Form-LLL "Disclosure Form to Report Lobbying", if any funds, other than Federal appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of a government agency or a Member of Congress in connection with the Federal Agreement, grant loan, or cooperative Agreement.
- (c) They shall require that the language of this Certification be included in the award documents for all sub awards at all tiers (including subcontractors, sub grants and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact, upon which reliance was placed when the Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into the Agreement, imposed by Section 1352, Title 31, U.S.C..

Section 1352 of Title 31, U.S.C., provides, in part, that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any government agency, Member of Congress, officer or employee of Congress, or employee of a Member of Congress, in the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative Agreement.

CHILD SUPPORT PAYMENTS: By signing the Contract the Municipal Project Manager certifies, as of the date of signing the Agreement, that they are (a) not under an obligation to pay child support; or (b) is under such an obligation and is in good standing with respect to that obligation; or (c) has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan. If the Municipal Project Manager is a sole proprietorship, the Municipal Project Manager's statement applies only to the proprietor. If the Municipal Project Manager is a partnership, the Municipal Project Manager's statement applies to all general partners with a permanent residence in Vermont. If the Municipal Project Manager is a corporation, this provision does not apply.

TAX REQUIREMENTS: By signing the Agreement, the Municipal Project Manager certifies, as required by law under 32 VSA, Section 3113, that under the pains and penalties of perjury, he/she is in good standing with respect to payment, or in full compliance with a plan to pay, any and all taxes due the State of Vermont as of the date of signature on the Agreement.

ENERGY CONSERVATION: The Municipal Project Manager shall recognize mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act P.L. 94-165.

4. CONTRACTUAL AGREEMENTS

REGISTRATION: If necessary, the Municipal Project Manager agrees to become registered with the Vermont Secretary of State's office as a corporation doing business in the State of Vermont. This registration must be complete prior to contract execution.

ADMINISTRATION REQUIREMENTS: By signing the Agreement the Municipal Project Manager agrees to comply with the following provisions and certifies that he/she or they are in compliance with the provisions of 49 CFR Part 18.36 Procurement (i) Contract Provisions with principal reference to the following:

- (a) Copeland "Anti-Kickback" Act. For any Federal-Aid Contracts or subcontracts for construction or repair, the Municipal Project Manager agrees to comply with the Copeland "Anti-Kickback" Act, 18 U.S.C. Part 874, as supplemented by Department of Labor Regulations, 29 CFR Part 3.
- (b) Davis-Bacon Act. For any Federal-Aid construction contracts in excess of \$2,000, the Municipal Project Manager agrees to comply with the Davis-Bacon Act 40 U.S.C. Section 276a to a-7, as supplemented by Department of Labor Regulations, 29 CFR Part 5.
- (c) Work Hours. For any Federal-Aid construction contracts in excess of \$ 2,000, or in excess of \$ 2,500 for other contracts involving employment of mechanics or laborers, the

Municipal Project Manager agrees to comply with the Contract Working Hours and Safety Standards Act, 40 U.S.C. Section 327-330, as annexed by Department of Labor Regulations, 29 CFR Part 5.

- (d) Proprietary Rights. The parties under the Agreement hereby mutually agree that, if patentable discoveries or inventions should result from work performed under the Agreement, all rights accruing from such discoveries or inventions shall be the sole property of the Municipal Project Manager. The Municipal Project Manager, however, agrees to and does hereby grant to the Municipality, the State of Vermont and the United States Government an irrevocable, nonexclusive, non-transferable, and royalty-free license to practice each invention in the manufacture, use, and disposition, according to law, of any article or material or use of method that may be developed, as a part of the work under the Agreement.
- (e) Publications. All data, EDM, valuable papers and documents produced under the terms of the Agreement, shall become the property of the Municipality. The Municipal Project Manager agrees to allow access to all data, EDM, valuable papers and documents at all times. The Municipal Project Manager shall not copyright any material originating under the Agreement without prior written approval of the Municipality.

PERSONNEL REQUIREMENTS AND CONDITIONS: A Municipal Project Manager shall employ only qualified personnel, for responsible authority to supervise the work. The Municipality shall have the right to approve or disapprove key personnel assigned to administer activities related to the Agreement.

Except with the approval of the Municipality, during the life of the Agreement, the Municipal Project Manager shall not employ:

- (a) Personnel on the payroll of the Municipality who are directly involved with the awarding, administration, monitoring, or performance of the Agreement or any project(s) that are the subjects of the Agreement.
- (b) Any person so involved within one (1) year of termination of employment with the Municipality.

The Municipal Project Manager warrants that no company or person has been employed or retained, other than a bonafide employee working solely for the Municipal Project Manager, to solicit or secure this Agreement, and that no company or person has been paid or has an agreement with the Municipal Project Manager to be paid, other than a bonafide employee working solely for the Municipal Project Manager, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of the Agreement. For breach or violation of this warranty, the Municipality shall have the right to annul the Agreement, without liability to the Municipality, and to regain all costs incurred by the Municipality in the performance of the Agreement.

The Municipality reserves the right to require removal of any person employed by a Municipal Project Manager, from work related to the Agreement, for misconduct, incompetence, or negligence, in the opinion of the Municipality in the due and proper performance of its duties, or who neglects or refuses to comply with the requirements of the Agreement.

TRANSFERS, SUBLETTING, ETC: A Municipal Project Manager shall not assign, sublet, or transfer any interest in the work, covered by an Agreement, without prior written consent of the Municipality and further, if any subconsultant participates in any work involving additional services, the estimated extent and cost of the contemplated work must receive prior written consent of the Municipality. The approval or consent to assign or sublet any portion of the work, shall in no way relieve the Municipal Project Manager of responsibility for the performance of that portion of the work so transferred. The form of the subcontractor's agreement shall be as developed by the Municipal Project Manager and approved by the Municipality. The Municipal Project Manager shall ensure that adequate insurance coverage exists for any operations to be performed by any subconsultant.

The services of the Municipal Project Manager, to be performed under the Agreement, are personal and shall not be transferred without written authorization of the Municipality and, when applicable, approved by the State of Vermont and FHWA. Any authorized sub agreements, exceeding ten thousand dollars in cost, shall contain all of the same provisions specified for and attached to the original Agreement with the Municipality.

BEGINNING AND COMPLETION OF WORK: The Municipal Project Manager agrees to begin performance of services, specified in the Agreement, in accordance with the terms of the Agreement, as arranged in negotiations with the Municipality, or within ten (10) days of the date of written notice to begin work by the Municipality, and to complete the contracted services by the completion dates specified in the Agreement.

Upon completion of all services covered under the Agreement and payment of the agreed upon fee, the Agreement with its mutual obligations shall be terminated.

CONTINUING OBLIGATIONS: The Municipal Project Manager agrees that if, because of death or other occurrences, it becomes impossible to effectively perform its services in compliance with the Agreement, neither the Municipal Project Manager nor its surviving members shall be relieved of their obligations to complete the Agreement. However, the Municipality may terminate the Agreement if it considers a death or incapacity of any members to be a loss of such magnitude that it would affect the firm's ability to satisfactorily execute the Agreement.

OWNERSHIP OF THE WORK: The Municipal Project Manager agrees that project material, whether prepared or collected, shall become the property of the Municipality as they are prepared and/or developed during execution of the Agreement.

The Municipal Project Manager shall surrender to the Municipality upon demand or submit for inspection at any time any instruments of professional service that have been collected, undertaken or completed by the Municipal Project Manager pursuant to the Agreement. Upon completion of the work, in full, these instruments of professional service will be appropriately endorsed by the Municipal Project Manager and turned over to the Municipality.

Data and publication rights to any instruments of service produced under this agreement are reserved to the Municipality and shall not be copyrighted by the Municipal Project Manager at any time without written approval of the Municipality. No publications or publicity of the work, in part or in total, shall be made without the agreement of the Municipality, except that Municipal Project Managers may in general terms use previously developed instruments of professional service to describe its abilities for a project in promotional materials.

RECORDS RETENTION: The Municipal Project Manager agrees to retain, in company files, all books, documents, EDM, valuable papers, accounting records, and other evidence, pertaining to costs incurred for work performed under the Agreement, for a period of at least three (3) years after the final "date of acceptance" by the Municipality, unless otherwise notified by the Municipality. The Municipal Project Manager further agrees that the Municipality, the State of Vermont, FHWA or other authorized representatives of the Federal Government, shall have access to all the above information for the purpose of review and audit during the Agreement period and anytime within the aforementioned retention period. Copies of all the above referenced information shall be provided to the Municipality if requested.

APPEARANCES:

- (a) Hearings and Conferences. The Municipal Project Manager shall provide professional services required by the Municipality and necessary for furtherance of any work covered under the Agreement. Professional services shall include appropriate representation at design conferences, public gatherings and hearings, and appearances before any legislative body, commission, board, or court, to justify, explain and defend its contractual services covered under the Agreement.

The Municipal Project Manager shall perform any liaison that the Municipality deems necessary for the furtherance of the work and participate in conferences with the Municipality, at any reasonable time, concerning interpretation and evaluation of all aspects covered under the Agreement.

The Municipal Project Manager further agrees to participate in meetings with the Municipality, the State of Vermont, FHWA, and any other interested or affected participant, for the purpose of review or resolution of any conflicts pertaining to the Agreement. The Municipal Project Manager shall be equitably paid for such services and for any reasonable expenses incurred in relation thereto in accordance with the Contract document.

- (b) Appearance as Witness. If and when required by the Municipality, a Municipal Project Manager, or an appropriate representative, shall prepare and appear for any litigation concerning any relevant project or related Agreement, on behalf of the Municipality. The Municipal Project Manager shall be equitably paid for such services and for any reasonable expenses incurred in relation thereto, in accordance with the Contract document.

CHANGES AND AMENDMENTS: No changes or amendments of the Agreement shall be effective unless documented in writing and signed by authorized representatives of the Municipality and the Municipal Project Manager.

APPENDICES: The Municipality may attach, to these specifications, appendices containing various forms and typical sample sheets for guidance and assistance to the Municipal Project Manager in the performance of the work. It is understood, however, that such forms and samples may be modified, altered, and augmented from time to time by the Municipality as occasions may require. It is the responsibility of the Municipal Project Manager to ensure that they have the latest versions applicable to the Agreement.

EXTENSION OF TIME: The Municipal Project Manager agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by the Municipal Project Manager for delays or hindrances, from any cause whatsoever, during the progress of any portion of services specified in the Agreement. Such delays or hindrances, if any, may be compensated for by an extension of time for such reasonable period as the Municipality may decide. Time extensions shall be granted by amendment, only for excusable delays, such as delays beyond the control of the Municipal Project Manager and without the fault or negligence of the Municipal Project Manager.

SETTLEMENTS OF MISUNDERSTANDINGS: In order to prevent misunderstandings and litigation, it is mutually agreed by all parties that the selectboard and/or city council shall act as referee on all questions arising under the terms of an Agreement and that the decision of this governing body in such cases shall be binding upon both parties.

Agreements subjecting costs to final audit, an administrative review regarding the audit will be sent to the Municipal Project Manager. Any dispute arising from an administrative decision shall be appealed in writing within thirty (30) days of receipt.

FAILURE TO COMPLY WITH TIME SCHEDULE: It is mutually understood and agreed to, that neither party hereto shall be held responsible for delay in performing the work encompassed herein, when such delay is due to unforeseeable causes such as acts of God, or a public enemy, fire, strikes, floods, or legal acts of public authorities. In the event that any such causes for delay are of such magnitude as to prevent the complete performance of the Agreement within two (2) years of the originally scheduled completion date, either party may by written notice request to amend or terminate the Agreement.

MUNICIPALITY'S OPTION TO TERMINATE: The Agreement may be terminated in accordance with the following provisions:

- (a) Breach of Contract. Administrative remedies - the Municipality reserves the right to terminate a Contract for breach of Contract agreements. Termination for breach of Contract will be without further compensation to the Municipal Project Manager.
- (b) Termination for Cause. The Municipality reserves the right, upon written notice to the Municipal Project Manager, to terminate the Agreement, as of a date to be specified by the Municipality, if the Municipal Project Manager fails to complete the designated work to the satisfaction of the Municipality, within the time schedule agreed upon. The Municipal Project Manager shall be compensated on the basis of the work performed and accepted by the Municipality at the date of final acceptance of the Agreement.
- (c) Termination for Convenience. In addition to its rights and options to terminate an Agreement as provided herein, the Municipality may, at any time prior to completion of services specified under an Agreement, terminate the Agreement by submitting written notice to a Municipal Project Manager, within not less than fifteen (15) days prior to the effective date, via certified or registered mail, of its intention to do so. If the termination is for the Municipality's convenience, payment to the Municipal Project Manager will be made promptly for the amount of any fees earned to the date of the notice of termination, less any payments previously made. However, if a notice of termination is given to a Municipal Project Manager prior to completion of twenty (20) percent of the estimated services, as set forth in the approved Work Schedule and Progress Report, the Municipal Project Manager will be reimbursed for that portion of any reasonable and necessary expenses incurred to date of the notice of termination, that are in excess of the amount earned under its approved fee to the date of said termination. Such requests for reimbursement shall be supported with factual data and shall be subject to the Municipality's approval.

The Municipal Project Manager shall make no claim for additional compensation against the Municipality by reason of such termination.

5. OPERATIONAL STANDARDS

RESPONSIBILITY FOR SUPERVISION: The Municipal Project Manager shall assume primary responsibility for general supervision of Municipal Project Manager employees and his/her or their subconsultants for all work performed under the Contract and shall be solely responsible for all procedures, methods of analysis, interpretation, conclusions and contents of work performed under the Agreement.

INDEPENDENCE: The Municipal Project Manager shall act in an independent capacity and not as officers or employees of the Municipality.

WORK SCHEDULE AND PROGRESS REPORT: Prior to initiating any work, the Municipal Project Manager shall prepare, and submit to the Municipality, a general work schedule showing how the Municipal Project Manager will complete the various phases of work in order to meet the completion date in the contract. The Municipality will use this general work schedule to monitor the Municipal Project Manager.

During the life of the Contract the Municipal Project Manager will make monthly progress reports indicating the work achieved through the date of the report. The Municipal Project Manager shall link the monthly progress reports to the general schedule submitted.

The report shall indicate any matters that have or are anticipated to adversely affect progress of the work. The Municipality may require the Municipal Project Manager to prepare a revised work schedule, in the event that a specific progress achievement falls behind the scheduled progress by more than thirty (30) days.

UTILITIES: Whenever a facility or component of a private, public, or cooperatively-owned utility will be affected by any proposed construction, the Municipal Project Manager will counsel with the Municipality, plus achieve any necessary contacts and discussions with the affected owners, regarding any requirement necessary for revisions of facilities or existing installations, both above and below ground. Any such installations must be completely and accurately exhibited on any detail sheets or plans. The Municipal Project Manager shall inform the Municipality, in writing, of any such contacts and the results thereof.

PUBLIC RELATIONS: Whenever it is necessary to perform work in the field, particularly with respect to reconnaissance, the Municipal Project Manager will endeavor to maintain good relations with the public and any affected property owners. Personnel employed by or representing the Municipal Project Manager shall conduct themselves with propriety. The Municipal Project Manager agrees to inform property owners and/or tenants, in a timely manner, if there is need for entering upon private property as an agent of the Municipality, in accordance with VSA Title 19 Part 35 and Part 503, in order to accomplish the work under the Agreement. The Municipal Project Manager agrees that any work will be done with minimum damage to the land and disturbance to the owner. Upon request of the Municipal Project Manager, the Municipality shall furnish a letter of introduction to property owners soliciting their cooperation and explaining that the Municipal Project Manager is acting as an agent of the Municipality.

INSPECTION OF WORK: The Municipality shall, at all times, have access to the Municipal Project Manager's work for the purposes of inspection, accounting, and auditing, and the Municipal Project Manager shall provide whatever access is considered necessary to accomplish such inspections. At any time, the Municipal Project Manager shall permit the Municipality or representative for the Municipality the opportunity to inspect any plans, drawings, estimates, specifications, or other materials prepared or undertaken by the Municipal Project Manager pursuant to execution of the Agreement.

Conferences, visits to a site, or an inspection of the work, may be held at the request of any involved party or by representatives of the Municipality, the State of Vermont or FHWA.

WRITTEN DELIVERABLES: Written deliverables, presented under terms of the Agreement, shall be on 8 1/2" by 11 paper, consecutively printed on both sides. Reports shall be bound and have a title page that identifies the name and number of the project and publication date. The report shall have a table of contents and each page shall be numbered successively. Draft reports shall be identified as such.

6. PAYMENT FOR SERVICES RENDERED

PAYMENT PROCEDURES: The Municipality shall pay, or cause to be paid to the Municipal Project Manager or the Municipal Project Manager's legal representative, progress payments, that may be monthly or as otherwise accepted by the Municipality, as determined by the percentage of work completed, as documented by a progress report of such work duly attested, for each phase of the required services covered by the Agreement. When applicable, for the type of payment specified in the Agreement, the progress report shall summarize actual costs and any earned portion of fixed fee.

All invoices and correspondence shall indicate the applicable project name, project number and the Agreement number. When relevant, the invoice shall further be broken down in detail between projects.

When applicable, for the type of payment specified in the Agreement, expenses for meals and travel shall be limited to the current approved in-state rates, as determined by the State of Vermont's labor contract, and need not be receipted. All other expenses are subject to approval by the Municipality and must be accompanied with documentation to substantiate their charges.

Invoices shall be submitted to the Municipality; one original and three (3) copies are required.

No approval given or payment made under an Agreement, shall be conclusive evidence of the performance of said Agreement, either wholly or in part thereof, and no payment shall be construed to be acceptance of defective work or improper materials.

The Municipality agrees to pay the Municipal Project Manager and the Municipal Project Manager agrees to accept, as full compensation, for performance of all services rendered and expenses encompassed in conformance therewith, the type of fee specified in the Contract.

- (a) Indirect Cost Rates. For actual cost contracts, the Municipal Project Manager is responsible for furnishing the Municipality with independently-prepared, properly supported, Indirect Cost Rates, in accordance with 48 CFR 52.216-7, for all time periods covered under the Agreement. These rates must be developed in accordance with the cost principles in 48 CFR Part 31. A Municipal Project Managers overhead rate shall be based upon an actual audited overhead rate, unless otherwise specified in the Agreement.
- (b) Contract Types. Contracts shall conform with 48 CFR Part 16 - TYPES OF CONTRACTS.

PAYMENT FOR ADDITIONS OR DELETIONS: The Municipality may, upon written notice, and without invalidating the Agreement, require any changes to, additions to, or deletions from, the originally contemplated extent of the work, prior to completion of the Agreement by means of an amendment to the original contract. Any adjustments of this nature shall be executed under the appropriate fee established in the Agreement, based on the adjusted quantity of work, except that any claim for extension of time caused thereby shall be adjusted at the time of ordering such addition or deletion.

PAYMENT FOR EXTRA WORK, ADDITIONAL SERVICES OR CHANGES: The Municipality may, upon written notice, and without invalidating the Agreement, require changes resulting from revision or abandonment of work already satisfactorily performed by the Municipal Project Manager or changes in the scope of the work.

The value of such changes, to the extent not reflected in other payments to the Municipal Project Manager, shall be incorporated in an amendment and be determined by mutual agreement, in one or more of the following ways:

- (a) Fixed Price. By a price that is not subject to any adjustment on the basis of the Contractor's expenses experienced in performing the work. The Contractor is fully responsible for all costs and resulting profit or loss.
- (b) Rate Schedule. By unit prices designated in the Agreement, or by unit prices covered under any subsequent Agreements.
- (c) Actual Cost. By amounts determined on the basis of actual costs incurred, as distinguished from forecasted expenditures.

No changes, for which additional fee payment is claimed, shall be made unless pursuant to a written order from the Municipality, and no claim shall be valid unless so ordered.

The Municipal Project Manager agrees to maintain complete and accurate records, in a form satisfactory to the Municipality for all time devoted directly to same by Municipal Project Manager employees. The Municipality reserves the right to audit the records of the Municipal Project Manager related to any extra work or additional services. Any such services rendered shall be subject, in all other respects, to the terms of the Agreement. When changes are so ordered, no additional work shall be performed by the Municipal Project Manager until an Agreement amendment has been fully executed, unless written notice to proceed is issued by the Municipality. Any claim for extension of time, that may be necessitated as a result of extra work or additional services and changes, shall be given consideration and evaluated insofar as it directly relates to the change.

Appendix E

Consultant Contract Provisions

CONSULTANT CONTRACT ATTACHMENT:

CONTRACT PROVISIONS

(UPDATE COMING SOON)

Includes:

- 1. INDEMNIFICATION**
- 2. INSURANCE**
- 3. COMPLIANCE WITH LAWS**
- 4. CONTRACTUAL AGREEMENTS**
- 5. OPERATIONAL STANDARDS**
- 6. PROJECT DEVELOPMENT AND STANDARDS**
- 7. PAYMENT FOR SERVICES RENDERED**

OCTOBER, 1998

CONTRACT PROVISIONS:

Wherever used, abbreviations may be used in place of a word or phrase and definitions may be used to interpret statements for the meaning of words phrases or expressions. The intent and meaning for abbreviations and definitions shall be interpreted as herein set forth:

AASHTO	American Association of State Highway and Transportation Officials
AGC	Associated General Contractors of America
AIA	American Institute of Architects
ANR	Agency of Natural Resources
ANSI	American National Standards Institute
ASCE	American Society of Civil Engineers
AWS	American Welding Society
CADD	Computer Aided Drafting and Design
CES	Consultant Engineering Services
CFR	Code of Federal Regulations
DOT	United States Department of Transportation
EEO	Equal Employment Opportunity
EIS	Environmental Impact Statement
EDM	Electronic Data Media
FAA	Federal Aviation Administration
FAR	Federal Acquisition Regulation
FHWA	Federal Highway Administration, U.S. Department of Transportation
FRA	Federal Railroad Administration
FSS	Federal Specifications and Standards (General Services Administration)
FTA	Federal Transit Administration
SIR	Self Insured Retention
U.S.C.	United States Code
USEPA	United States Environmental Protection Agency
VAOT	Vermont Agency of Transportation
VOSHA	Vermont Occupational Safety and Health Act
VSA	Vermont Statutes Annotated

1. INDEMNIFICATION

The Consultant agrees, to the fullest extent permitted by the law, that it shall indemnify and hold harmless the Municipality, its officers, agents and employees from liability for damages to third parties, together with costs, including attorney's fees, incurred in defending such claims by third parties, to the extent such liability is caused by the negligent or intentional acts, errors, or omissions of the Consultant, its agents or employees, committed, in the performance of professional services to be provided by the Consultant under this Agreement.

The Municipality is responsible for its own actions. The Consultant is not obligated to indemnify the Municipality or its officers, agents and employees for any liability of the Municipality, its officers, agents and employees attributable to its, or their own, negligent acts, errors or omissions.

In the event the Municipality, its officers, agents or employees are notified of any claims asserted against it or them to which this Indemnification clause may apply, the Municipality or its officers, agents and employees shall immediately thereafter notify the Consultant in writing that a claim to which the Indemnification Agreement may apply has been filed.

2. INSURANCE

GENERAL: Prior to beginning any work the Consultant shall obtain the following Insurance Coverage. The certificate of insurance coverage shall be documented on forms acceptable to the Municipality. Evidence of compliance with minimum limits and coverages, evidenced by a certificate of insurance showing policies and carriers that are acceptable to the Municipality, must be received prior to the effective date of the Agreement. The insurance policy (ies) shall provide that insurance coverage cannot be canceled or revised without fifteen (15) days' prior notice to the Municipality. In the event that this Contract extends to greater than one year, evidence of continuing coverage must be submitted to the Municipality on an annual basis. Certified copies of any insurance policies may be required.

The Consultant is responsible to verify that:

- (a) All subconsultants, agents or workers meet the minimum coverages and limits plus maintain current certificates of coverage for all subconsultants, agents or workers.
- (b) All coverages shall include adequate protection for activities involving hazardous materials.
- (c) All work activities related to the agreement shall meet minimum coverages and limits.

No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Consultant for the Consultant's operations. These are solely minimums that have been developed and must be met to protect the interests of the Municipality.

GENERAL LIABILITY AND PROPERTY DAMAGE:

- (a) With respect to all operations performed by the Consultant, subconsultants, agents or workers, it is the Consultant's responsibility to insure that general liability insurance coverage provides all major divisions of coverage including, but not limited to:

- 1. Premises Operations

2. Independent Contractors' Protective
3. Products and Completed Operations
4. Personal Injury Liability
5. Contractual Liability
6. Broad Form Property Damage
7. Medical Expenses
8. Collapse, Underground and Explosion Hazards

(b) The policy shall be on an occurrence form with limits not less than:

1. General Aggregate	\$2,000,000
2. Products-Completed/Operations Aggregate	\$1,000,000
3. Personal & Advertising Injury	\$1,000,000
4. Each Occurrence	\$1,000,000
5. Fire Damage (Any one fire)	\$ 50,000
6. Med. Expense (Any one person)	\$ 5,000

WORKERS' COMPENSATION: With respect to all operations performed, the Consultant shall carry workers compensation insurance in accordance with the laws of the State of Vermont. Minimum limits for Employer's Liability:

- (a) Bodily Injury by Accident: \$100,000 each accident
- (b) Bodily Injury by Disease: \$500,000 policy limit, \$100,000 each employee

PROFESSIONAL LIABILITY INSURANCE:

- (a) General. This applies only to those Contracts specifically identified as requiring Errors & Omissions (**E&O**) Insurance. The Consultant shall carry architects/engineers professional liability insurance covering errors and omissions made during their performance of contractile duties with the following minimum limits:

\$1,000,000 - Annual Aggregate
\$1,000,000 - Per Occurrence
- (b) Deductibles. The consultant is responsible for any and all deductibles.
- (c) Coverage. Prior to performing any work, the Consultant agrees to provide evidence of **E&O** insurance coverage defined under this Section. In addition, the Contractor agrees to attempt to maintain continuous professional liability coverage for the period of the agreement and whenever applicable any construction work related to this agreement, and for a period of five years following substantial completion, if such coverage is reasonably available at commercially affordable premiums.

VALUABLE PAPERS INSURANCE: This applies only to those Contracts specifically identified as requiring Valuable Papers Insurance. The Consultant shall carry valuable papers insurance in a form and amount sufficient to ensure the restoration or replacement of any plans, drawings, field notes, or other data relating to the work, whether supplied by the Municipality or developed by the Consultant, subconsultant, worker or agent, in the event of loss, impairment or destruction of these documents. Such coverage shall remain in force until the final plans, and all related materials, have been delivered by the Consultant to, and accepted by, the Municipality.

The policy shall provide coverage on an each occurrence basis with limits not less than:

Valuable Papers	\$10,000
Electronic Data Media	\$10,000

AUTOMOBILE LIABILITY: The Consultant shall carry automobile liability insurance covering all motor vehicles, including owned, non-owned and hired, used in connection with the agreement. Each policy shall provide coverage with a limit not less than: \$1,000,000 - Combined Single Limit

3. COMPLIANCE WITH LAWS

GENERAL COMPLIANCE WITH LAWS: The Consultant shall comply with all applicable Federal, State and local laws.

Provisions of the Agreement shall be interpreted and implemented in a manner consistent with each other and using procedures that will achieve the intent of both parties. If, for any reason, a provision in the Agreement is unenforceable or invalid, that provision shall be deemed severed from the Agreement, and the remaining provisions shall be carried out with the same force and effect as if the severed provisions had never been a part of the Agreement.

ENVIRONMENTAL REGULATIONS: Any Contract in excess of one hundred thousand dollars shall comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. Part 1857(h)), Section 508 of the Clean Air Act (33 U.S.C. Part 1368), Executive Order 11738, and Environmental Protection Municipality regulation (40 CFR Part 15), that prohibit the use, under non-exempt Federal Contracts, grants or loans, of facilities included on the EPA list of Violating Facilities. The provisions require reporting of violations to the grantor, Municipality and to the USEPA Assistant Administrator for Enforcement (EN-329).

CIVIL RIGHTS and EQUAL EMPLOYMENT OPPORTUNITY: During performance of the Agreement, the Consultant will not discriminate against any employee or applicant for employment because of race, age, color, religion, sex, national origin, physical disability or veteran status.

The Consultant shall comply with the applicable provisions of Title VI of the Civil Rights Act of 1964 as amended, Executive Order 11246 as amended by Executive Order 11375 and as supplemented by the Department of Labor regulations (41 CFR Part 60). The Consultant shall also comply with the rules, regulations and relevant orders of the Secretary of Labor, Nondiscrimination regulations 49 CFR Part 21 through Appendix C, and Regulations under 23 CFR Section 710.405 (b) . Accordingly, all subcontracts shall include reference to the above.

The Consultant shall comply with all the requirements of Title 21, VSA, Chapter 5, Subchapter 6 and 7, relating to fair employment practices to the extent applicable. A similar provision shall be included in any and all subcontracts.

DEBARMENT CERTIFICATION: When signing a Contract in excess of twenty five thousand dollars, the Consultant certifies under the penalty of perjury as directed by Federal laws (48 CFR 52.209-5), that, except as noted in the Agreement, the Consultant or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of federal funds:

- (a) is not currently under suspension, debarment, voluntarily exclusion or determination of ineligibility by any Federal agency;
- (b) has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past three (3) years;
- (c) does not have a proposed debarment pending; and
- (d) has not been indicted, convicted, or had a civil judgment rendered against him/her by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

Exceptions will not necessarily result in denial of the Contract but will be considered in determining the Consultant's responsibility. The Agreement shall indicate any exception and identify to whom or to what Municipality it applies and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

Exceptions shall be noted in the Contract:

LOBBYING: For any Agreement exceeding one hundred thousand dollars, the Consultant certifies by signing the Agreement, that to the best of their knowledge and belief on behalf of their signature:

- (a) No Federal appropriated funds have been paid or will be paid by or to any person influencing or attempting to influence an officer or employee of a government agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member

of Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or the extension, renewal, amendment or modification of any Federal Contract grant, loan or cooperative Agreement.

- (b) They will complete and submit, in accordance with its instructions, Standard Form-LLL "Disclosure Form to Report Lobbying", if any funds, other than Federal appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of a government agency or a Member of Congress in connection with the Federal Agreement, grant loan, or cooperative Agreement.
- (c) They shall require that the language of this Certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact, upon which reliance was placed when the Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into the Agreement, imposed by Section 1352, Title 31, U.S.C..

Section 1352 of Title 31, U.S.C., provides, in part, that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any government agency, Member of Congress, officer or employee of Congress, or employee of a Member of Congress, in the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative Agreement.

CHILD SUPPORT PAYMENTS: By signing the Contract the Consultant certifies, as of the date of signing the Agreement, that they are (a) not under an obligation to pay child support; or (b) is under such an obligation and is in good standing with respect to that obligation; or (c) has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan. If the Consultant is a sole proprietorship, the Consultant's statement applies only to the proprietor. If the Consultant is a partnership, the Consultant's statement applies to all general partners with a permanent residence in Vermont. If the Consultant is a corporation, this provision does not apply.

TAX REQUIREMENTS: By signing the Agreement, the Consultant certifies, as required by law under 32 VSA, Section 3113, that under the pains and penalties of perjury, he/she is in good standing with respect to payment, or in full compliance with a plan to pay, any and all taxes due the State of Vermont as of the date of signature on the Agreement.

ENERGY CONSERVATION: The Consultant shall recognize mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act P.L. 94-165.

4. CONTRACTUAL AGREEMENTS

REGISTRATION: The Consultant agrees to become registered with the Vermont Secretary of State's office as a corporation doing business in the State of Vermont. This registration must be complete prior to contract execution.

ADMINISTRATION REQUIREMENTS: By signing the Agreement the Consultant agrees to comply with the following provisions and certifies that he/she or they are in compliance with the provisions of 49 CFR Part 18.36 Procurement (i) Contract Provisions with principal reference to the following:

- (a) Copeland "Anti-Kickback" Act. For any Federal-Aid Contracts or subcontracts for construction or repair, the Consultant agrees to comply with the Copeland "Anti-Kickback" Act, 18 U.S.C. Part 874, as supplemented by Department of Labor Regulations, 29 CFR Part 3.
- (b) Davis-Bacon Act. For any Federal-Aid construction contracts in excess of \$2,000, the Consultant agrees to comply with the Davis-Bacon Act 40 U.S.C. Section 276a to a-7, as supplemented by Department of Labor Regulations, 29 CFR Part 5.
- (c) Work Hours. For any Federal-Aid construction contracts in excess of \$ 2,000, or in excess of \$ 2,500 for other contracts involving employment of mechanics or laborers, the Consultant agrees to comply with the Contract Working Hours and Safety Standards Act, 40 U.S.C. Section 327-330, as annexed by Department of Labor Regulations, 29 CFR Part 5.
- (d) Proprietary Rights. The parties under the Agreement hereby mutually agree that, if patentable discoveries or inventions should result from work performed under the Agreement, all rights accruing from such discoveries or inventions shall be the sole property of the Consultant. The Consultant, however, agrees to and does hereby grant to the Municipality, the State of Vermont and the United States Government an irrevocable, nonexclusive, non-transferable, and royalty-free license to practice each invention in the manufacture, use, and disposition, according to law, of any article or material or use of method that may be developed, as a part of the work under the Agreement.
- (e) Publications. All data, EDM, valuable papers and documents produced under the terms of the Agreement, shall become the property of the Municipality. The Consultant agrees to allow access to all data, EDM, valuable papers and documents at all times. The

Consultant shall not copyright any material originating under the Agreement without prior written approval of the Municipality.

PERSONNEL REQUIREMENTS AND CONDITIONS: A Consultant shall employ only qualified personnel, for responsible authority to supervise the work. The Municipality shall have the right to approve or disapprove key personnel assigned to administer activities related to the Agreement.

Except with the approval of the Municipality, during the life of the Agreement, the Consultant shall not employ:

- (a) Personnel on the payroll of the Municipality who are directly involved with the awarding, administration, monitoring, or performance of the Agreement or any project(s) that are the subjects of the Agreement.
- (b) Any person so involved within one (1) year of termination of employment with the Municipality.

The Consultant warrants that no company or person has been employed or retained, other than a bonafide employee working solely for the Consultant, to solicit or secure this Agreement, and that no company or person has been paid or has an agreement with the Consultant to be paid, other than a bonafide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of the Agreement. For breach or violation of this warranty, the Municipality shall have the right to annul the Agreement, without liability to the Municipality, and to regain all costs incurred by the Municipality in the performance of the Agreement.

The Municipality reserves the right to require removal of any person employed by a Consultant, from work related to the Agreement, for misconduct, incompetence, or negligence, in the opinion of the Municipality in the due and proper performance of its duties, or who neglects or refuses to comply with the requirements of the Agreement.

TRANSFERS, SUBLETTING, ETC: A Consultant shall not assign, sublet, or transfer any interest in the work, covered by an Agreement, without prior written consent of the Municipality and further, if any subconsultant participates in any work involving additional services, the estimated extent and cost of the contemplated work must receive prior written consent of the Municipality. The approval or consent to assign or sublet any portion of the work, shall in no way relieve the Consultant of responsibility for the performance of that portion of the work so transferred. The form of the subcontractor's agreement shall be as developed by the Consultant and approved by the Municipality. The Consultant shall ensure that adequate insurance coverage exists for any operations to be performed by any subconsultant.

The services of the Consultant, to be performed under the Agreement, are personal and shall not be transferred without written authorization of the Municipality and, when applicable, approved

by the State of Vermont and FHWA. Any authorized subagreements, exceeding ten thousand dollars in cost, shall contain all of the same provisions specified for and attached to the original Agreement with the Municipality.

BEGINNING AND COMPLETION OF WORK: The Consultant agrees to begin performance of services, specified in the Agreement, in accordance with the terms of the Agreement, as arranged in negotiations with the Municipality, or within ten (10) days of the date of written notice to begin work by the Municipality, and to complete the contracted services by the completion dates specified in the Agreement.

Upon completion of all services covered under the Agreement and payment of the agreed upon fee, the Agreement with its mutual obligations shall be terminated.

CONTINUING OBLIGATIONS: The Consultant agrees that if, because of death or other occurrences, it becomes impossible to effectively perform its services in compliance with the Agreement, neither the Consultant nor its surviving members shall be relieved of their obligations to complete the Agreement. However, the Municipality may terminate the Agreement if it considers a death or incapacity of any members to be a loss of such magnitude that it would affect the firm's ability to satisfactorily execute the Agreement.

OWNERSHIP OF THE WORK: The Consultant agrees that the ownership of all studies, data sheets, survey notes, subsoil information, drawings, tracings, estimates, specifications, proposals, diagrams, calculations, EDM and other material prepared or collected by the Consultants, hereafter referred to as "instruments of professional service", shall become the property of the Municipality as they are prepared and/or developed during execution of the Agreement.

The Consultant shall surrender to the Municipality upon demand or submit for inspection at any time any instruments of professional service that have been collected, undertaken or completed by the Consultant pursuant to the Agreement. Upon completion of the work, in full, these instruments of professional service will be appropriately endorsed by the Consultant and turned over to the Municipality.

Data and publication rights to any instruments of service produced under this agreement are reserved to the Municipality and shall not be copyrighted by the Consultant at any time without written approval of the Municipality. No publications or publicity of the work, in part or in total, shall be made without the agreement of the Municipality, except that Consultants may in general terms use previously developed instruments of professional service to describe its abilities for a project in promotional materials.

RECORDS RETENTION: The Consultant agrees to retain, in company files, all books, documents, EDM, valuable papers, accounting records, and other evidence, pertaining to costs incurred for work performed under the Agreement, for a period of at least three (3) years after the final "date of acceptance" by the Municipality, unless otherwise notified by the Municipality. The Consultant further agrees that the Municipality, the State of Vermont, FHWA or other

authorized representatives of the Federal Government, shall have access to all the above information for the purpose of review and audit during the Agreement period and anytime within the aforementioned retention period. Copies of all the above referenced information shall be provided to the Municipality if requested.

APPEARANCES:

- (a) Hearings and Conferences. The Consultant shall provide professional services required by the Municipality and necessary for furtherance of any work covered under the Agreement. Professional services shall include appropriate representation at design conferences, public gatherings and hearings, and appearances before any legislative body, commission, board, or court, to justify, explain and defend its contractual services covered under the Agreement.

The Consultant shall perform any liaison that the Municipality deems necessary for the furtherance of the work and participate in conferences with the Municipality, at any reasonable time, concerning interpretation and evaluation of all aspects covered under the Agreement.

The Consultant further agrees to participate in meetings with the Municipality, the State of Vermont, FHWA, and any other interested or affected participant, for the purpose of review or resolution of any conflicts pertaining to the Agreement. The Consultant shall be equitably paid for such services and for any reasonable expenses incurred in relation thereto in accordance with the Contract document.

- (b) Appearance as Witness. If and when required by the Municipality, a Consultant, or an appropriate representative, shall prepare and appear for any litigation concerning any relevant project or related Agreement, on behalf of the Municipality. The Consultant shall be equitably paid for such services and for any reasonable expenses incurred in relation thereto, in accordance with the Contract document.

CHANGES AND AMENDMENTS: No changes or amendments of the Agreement shall be effective unless documented in writing and signed by authorized representatives of the Municipality and the Consultant.

APPENDICES: The Municipality may attach, to these specifications, appendices containing various forms and typical sample sheets for guidance and assistance to the Consultant in the performance of the work. It is understood, however, that such forms and samples may be modified, altered, and augmented from time to time by the Municipality as occasions may require. It is the responsibility of the Consultant to ensure that they have the latest versions applicable to the Agreement.

EXTENSION OF TIME: The Consultant agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by the Consultant for delays or hindrances, from any cause whatsoever, during the progress of any portion of services specified

in the Agreement. Such delays or hindrances, if any, may be compensated for by an extension of time for such reasonable period as the Municipality may decide. Time extensions shall be granted by amendment, only for excusable delays, such as delays beyond the control of the Consultant and without the fault or negligence of the Consultant.

SETTLEMENTS OF MISUNDERSTANDINGS: In order to prevent misunderstandings and litigation, it is mutually agreed by all parties that the selectboard and/or city council shall act as referee on all questions arising under the terms of an Agreement and that the decision of this governing body in such cases shall be binding upon both parties.

Agreements subjecting costs to final audit, an administrative review regarding the audit will be sent to the Consultant. Any dispute arising from an administrative decision shall be appealed in writing within thirty (30) days of receipt.

FAILURE TO COMPLY WITH TIME SCHEDULE: It is mutually understood and agreed to, that neither party hereto shall be held responsible for delay in performing the work encompassed herein, when such delay is due to unforeseeable causes such as acts of God, or a public enemy, fire, strikes, floods, or legal acts of public authorities. In the event that any such causes for delay are of such magnitude as to prevent the complete performance of the Agreement within two (2) years of the originally scheduled completion date, either party may by written notice request to amend or terminate the Agreement.

MUNICIPALITY'S OPTION TO TERMINATE: The Agreement may be terminated in accordance with the following provisions:

- (a) Breach of Contract. Administrative remedies - the Municipality reserves the right to terminate a Contract for breach of Contract agreements. Termination for breach of Contract will be without further compensation to the Consultant.
- (b) Termination for Cause. The Municipality reserves the right, upon written notice to the Consultant, to terminate the Agreement, as of a date to be specified by the Municipality, if the Consultant fails to complete the designated work to the satisfaction of the Municipality, within the time schedule agreed upon. The Consultant shall be compensated on the basis of the work performed and accepted by the Municipality at the date of final acceptance of the Agreement.
- (c) Termination for Convenience. In addition to its rights and options to terminate an Agreement as provided herein, the Municipality may, at any time prior to completion of services specified under an Agreement, terminate the Agreement by submitting written notice to a Consultant, within not less than fifteen (15) days prior to the effective date, via certified or registered mail, of its intention to do so. If the termination is for the Municipality's convenience, payment to the Consultant will be made promptly for the amount of any fees earned to the date of the notice of termination, less any payments previously made. However, if a notice of termination is given to a Consultant prior to

completion of twenty (20) percent of the estimated services, as set forth in the approved Work Schedule and Progress Report, the Consultant will be reimbursed for that portion of any reasonable and necessary expenses incurred to date of the notice of termination, that are in excess of the amount earned under its approved fee to the date of said termination. Such requests for reimbursement shall be supported with factual data and shall be subject to the Municipality's approval.

The Consultant shall make no claim for additional compensation against the Municipality by reason of such termination.

5. OPERATIONAL STANDARDS

RESPONSIBILITY FOR SUPERVISION: The Consultant shall assume primary responsibility for general supervision of Consultant employees and his/her or their subconsultants for all work performed under the Contract and shall be solely responsible for all procedures, methods of analysis, interpretation, conclusions and contents of work performed under the Agreement.

INDEPENDENCE: The Consultant shall act in an independent capacity and not as officers or employees of the Municipality.

WORK SCHEDULE AND PROGRESS REPORT: Prior to initiating any work, the Consultant shall prepare, and submit to the Municipality, a general work schedule showing how the consultant will complete the various phases of work in order to meet the completion date in the contract. The Municipality will use this general work schedule to monitor the consultant.

During the life of the Contract the Consultant will make monthly progress reports indicating the work achieved through the date of the report. The Consultant shall link the monthly progress reports to the general schedule submitted.

The report shall indicate any matters that have or are anticipated to adversely affect progress of the work. The Municipality may require the Consultant to prepare a revised work schedule, in the event that a specific progress achievement falls behind the scheduled progress by more than thirty (30) days.

UTILITIES: Whenever a facility or component of a private, public, or cooperatively-owned utility will be affected by any proposed construction, the Consultant will counsel with the Municipality, plus achieve any necessary contacts and discussions with the affected owners, regarding any requirement necessary for revisions of facilities or existing installations, both above and below ground. Any such installations must be completely and accurately exhibited on any detail sheets or plans. The Consultant shall inform the Municipality, in writing, of any such contacts and the results thereof.

PUBLIC RELATIONS: Whenever it is necessary to perform work in the field, particularly with respect to reconnaissance, the Consultant will endeavor to maintain good relations with the public and any affected property owners. Personnel employed by or representing the Consultant shall conduct themselves with propriety. The Consultant agrees to inform property owners and/or tenants, in a timely manner, if there is need for entering upon private property as an agent of the Municipality, in accordance with VSA Title 19 Part 35 and Part 503, in order to accomplish the work under the Agreement. The Consultant agrees that any work will be done with minimum damage to the land and disturbance to the owner. Upon request of the Consultant, the Municipality shall furnish a letter of introduction to property owners soliciting their cooperation and explaining that the Consultant is acting as an agent of the Municipality.

INSPECTION OF WORK: The Municipality shall, at all times, have access to the Consultant's work for the purposes of inspection, accounting, and auditing, and the Consultant shall provide whatever access is considered necessary to accomplish such inspections. At any time, the Consultant shall permit the Municipality or representative for the Municipality the opportunity to inspect any plans, drawings, estimates, specifications, or other materials prepared or undertaken by the Consultant pursuant to execution of the Agreement.

Conferences, visits to a site, or an inspection of the work, may be held at the request of any involved party or by representatives of the Municipality, the State of Vermont or FHWA.

WRITTEN DELIVERABLES: Written deliverables, presented under terms of the Agreement, shall be on 8 1/2" by 11 paper, consecutively printed on both sides. Reports shall be bound and have a title page that identifies the name and number of the project and publication date. The report shall have a table of contents and each page shall be numbered successively. Draft reports shall be identified as such.

6. PROJECT DEVELOPMENT AND STANDARDS

PLANS RECORDS AND AVAILABLE DATA: The Municipality agrees to make available, at no charge, for the Consultant's use all available data related to the Agreement including any preliminary plans, maps, drawings, photographs, reports, traffic data, calculations, EDM, valuable papers, topographic survey, utility location plats, or any other pertinent public records.

DESIGN STANDARDS: Unless otherwise specifically provided for in the Agreement, or directed in writing, Consultant services, studies or designs, that include or make reference to plans, specifications, special provisions, computations, estimates, or other data necessary for construction of a designed facility, shall be in conformance with applicable portions of the following specifications, manuals, codes or regulations, including supplements to or revisions thereof, adopted and in effect prior to award of the Agreement:

- (a) VAOT latest edition of the Standard Specifications for Construction.
- (b) VAOT Bridge Design Manual.

- (c) All applicable AASHTO roadway, traffic, bridge, bicycle and pedestrian policies, guides and manuals.
- (d) VAOT Manual on Survey.
- (e) VAOT Right-of-Way Manual.
- (f) The Highway Capacity Manual - Special Report 209.
- (g) The ANSI/AASHTO/AWS D-1.5, Bridge Welding code.
- (h) The MUTCD and Vermont Supplement requirements.
- (i) The Standard Specifications for Structural Supports for Highway Signs, Luminaries and Traffic Signals
- (j) Other Municipality directives and guidelines current at the time of the Agreement and as may be issued by the Municipality during the progress of the design.

In case of any conflict with the guidelines referenced, the Consultant is responsible to identify and follow any course of direction provided by the Municipality.

DEVELOPMENT OF PLANS: Unless otherwise indicated in an Agreement, the provisions of these specifications shall apply to any contract requiring preliminary engineering services in connection with highway, bridge, bicycle and pedestrian survey and design. The Consultant is responsible for the development of any and all work outlined in an Agreement.

The Municipality shall establish the termini of the project and may substantiate other conditions relative to locations established in the Agreement. When required under the Agreement, the Consultant will produce an acceptable survey and/or set of plans between such termini and follow any established provisions.

Endorsement of a recommended alignment made, by the Municipality, does not relieve the Consultant of the responsibility for making changes occasioned as a result of an alignment not conforming to standards or good engineering practices when the design is advanced. Nor is the Consultant relieved of changes developed by normal refinements.

Changes in work or Supplemental Agreements, requested or required of the Consultant by the Municipality, involving extra work or additional services must be properly documented and approved prior to initiating action of any work.

METRICATION: All work performed under a Contract shall be designed to comply with metrication units if specified in the Request for Proposals or the Scope of Work. Guide requirements for metric conversion shall follow criteria outlined in an AASHTO publication "Guide To Metric Conversion", copyright 1993. Copies of the Guide Requirements are available from AASHTO, 444 North Capitol St., N.W., Suite 225, Washington, DC 20001.

Unless otherwise required for special cases, the Consultant shall use the following conversions for metric units:

- (a) Lengths. For lengths less than 1 kilometer use meters. For lengths less than 1 meter use millimeters. For lengths less than 1 millimeter use micrometers.
- (b) Mass. For a mass less than 1 metric ton use kilograms. For a mass less than 1 kilogram use grams. For a mass less than 1 gram use milligrams.
- (c) Liquid Volume. For liquid volumes less than 1 cubic meter use liters. For liquid volumes less than 1 liter use milliliters. A liter is one thousandth of a cubic meter or 1000 cubic centimeters.
- (d) Solid Volume. For a solid volume less than 1 cubic meter use cubic millimeters.
- (e) Area. For an area less than 1 hectare use square meters. For an area less than 1 square meter use square millimeters.
- (f) Basic Engineering Conversion Factors.

1.	Mass/Unit Length	Pounds/Linear Foot to kilograms/meter (kg/m)
2.	Mass/Unit Area	Pounds/Square Foot to kilograms/square meter (kg/M ²)
3.	Mass Density	Pounds/Cubic Foot to kilograms/cubic meter (kg/M ³ ;))
4.	Force	Pounds to newtons (N)
5.	Pressure	Pounds/Square Foot to Pascal (Pa = N/M ²)
6.	Bending Moment	Newton - meter (N*m)

ELECTRONIC DATA MEDIA: Consultant, subconsultants, or any representatives performing work related to the Agreement, are responsible to insure that all data and information created or stored on EDM is secure and can be duplicated if the EDM mechanism is subjected to power outage or damage.

REVIEWS AND ACCEPTANCES: All preliminary and detailed designs, plans, specifications, estimates or other documents prepared by the Consultant, shall be subject to review and endorsement by the Municipality.

Approval for any inspections or sequences of progress of work shall be documented by letters, memoranda or other appropriate written means.

A frequency for formal reviews shall be set forth in the Agreement. Informal reviews, conducted by the Municipality will be performed as deemed necessary. The Consultants shall respond to

all official comments regardless of their source. The Consultant shall supply the Municipality with written copies of all correspondence relating to formal and informal reviews.

No acceptance shall relieve a Consultant of their professional obligation to correct any defects or errors in their work at their own expense.

7. PAYMENT FOR SERVICES RENDERED

PAYMENT PROCEDURES: The Municipality shall pay, or cause to be paid to the Consultant or the Consultant's legal representative, progress payments, that may be monthly or as otherwise accepted by the Municipality, as determined by the percentage of work completed, as documented by a progress report of such work duly attested, for each phase of the required services covered by the Agreement. When applicable, for the type of payment specified in the Agreement, the progress report shall summarize actual costs and any earned portion of fixed fee.

All invoices and correspondence shall indicate the applicable project name, project number and the Agreement number. When relevant, the invoice shall further be broken down in detail between projects.

When applicable, for the type of payment specified in the Agreement, expenses for meals and travel shall be limited to the current approved in-state rates, as determined by the State of Vermont's labor contract, and need not be receipted. All other expenses are subject to approval by the Municipality and must be accompanied with documentation to substantiate their charges.

Invoices shall be submitted to the Municipality; one original and three (3) copies are required.

No approval given or payment made under an Agreement, shall be conclusive evidence of the performance of said Agreement, either wholly or in part thereof, and no payment shall be construed to be acceptance of defective work or improper materials.

The Municipality agrees to pay the Consultant and the Consultant agrees to accept, as full compensation, for performance of all services rendered and expenses encompassed in conformance therewith, the type of fee specified in the Contract.

- (a) Indirect Cost Rates. For actual cost contracts, the Consultant is responsible for furnishing the Municipality with independently-prepared, properly supported, Indirect Cost Rates, in accordance with 48 CFR 52.216-7, for all time periods covered under the Agreement. These rates must be developed in accordance with the cost principles in 48 CFR Part 31. A Consultants overhead rate shall be based upon an actual audited overhead rate, unless otherwise specified in the Agreement.

- (b) Contract Types. Contracts shall conform with 48 CFR Part 16 - TYPES OF CONTRACTS.

PAYMENT FOR ADDITIONS OR DELETIONS: The Municipality may, upon written notice, and without invalidating the Agreement, require any changes to, additions to, or deletions from, the originally contemplated extent of the work, prior to completion of the Agreement by means of an amendment to the original contract. Any adjustments of this nature shall be executed under the appropriate fee established in the Agreement, based on the adjusted quantity of work, except that any claim for extension of time caused thereby shall be adjusted at the time of ordering such addition or deletion.

PAYMENT FOR EXTRA WORK, ADDITIONAL SERVICES OR CHANGES: The Municipality may, upon written notice, and without invalidating the Agreement, require changes resulting from revision or abandonment of work already satisfactorily performed by the Consultant or changes in the scope of the work.

The value of such changes, to the extent not reflected in other payments to the Consultant, shall be incorporated in an amendment and be determined by mutual agreement, in one or more of the following ways:

- (a) Fixed Price. By a price that is not subject to any adjustment on the basis of the Contractor's expenses experienced in performing the work. The Contractor is fully responsible for all costs and resulting profit or loss.
- (b) Rate Schedule. By unit prices designated in the Agreement, or by unit prices covered under any subsequent Agreements.
- (c) Actual Cost. By amounts determined on the basis of actual costs incurred, as distinguished from forecasted expenditures.

No changes, for which additional fee payment is claimed, shall be made unless pursuant to a written order from the Municipality, and no claim shall be valid unless so ordered.

The Consultant agrees to maintain complete and accurate records, in a form satisfactory to the Municipality for all time devoted directly to same by Consultant employees. The Municipality reserves the right to audit the records of the Consultant related to any extra work or additional services. Any such services rendered shall be subject, in all other respects, to the terms of the Agreement. When changes are so ordered, no additional work shall be performed by the Consultant until an Agreement amendment has been fully executed, unless written notice to proceed is issued by the Municipality. Any claim for extension of time, that may be necessitated as a result of extra work or additional services and changes, shall be given consideration and evaluated insofar as it directly relates to the change.

APPENDIX F

VERMONT AGENCY OF TRANSPORTATION

Personal Service Contract Consultant Financial Background Questionnaire VAOT Form AF38

FIRM NAME _____

BUSINESS ADDRESS _____

CONTACT PERSON/ PHONE # _____

Location of

Accounting

Records:

PURPOSE

The Policy of the Vermont Agency of Transportation in the solicitation of professional services is to require the submission of certain levels of consultant and subconsultant financial background information based on the estimated total of the proposed contract. To become eligible for contract selection, a consulting firm and their proposed subconsultant(s) must provide the requirements of this form at the time of Proposal submittal. For those questions that are not applicable (N/A) please so state and provide a written explanation for the N/A response.

AUDIT PROCEDURE

Federal Regulations and Agency Policy require that a pre-award evaluation of all potential consultants be conducted. The objective of the pre-award evaluation will be to assess the acceptability of the consultant's:

1. Proposed Cost and Quantities
2. Accounting System
3. Financial Condition

INSTRUCTIONS FOR FILING

1. Complete Section One if you wish to be qualified to compete for estimated contract values up to \$25,000.
2. Complete Sections One and Two if you wish to be qualified to compete for estimated contract values up to \$250,000.
3. Complete Sections One and Three if you wish to be qualified to compete for estimated contract values greater than \$250,000.
4. Consultant signature & notarization of this form is required.

SECTION ONE

1. Are time sheets maintained for all employees separating direct and indirect hours?

Yes _____ No _____

2. Are time sheets certified by management?

Yes _____ No _____

3. What accounting records are maintained to support financial transactions? Automated or Manual? (Indicate "A", "M" or n/a)

General Ledger _____

Cash Disbursement Journal _____

Cash Receipts Journal _____

Payroll _____

Project Cost Register _____

Employee Earnings Card _____

4. a.) Describe the accounting for direct expenses that are reimbursed and the correlation to the overhead rate calculation (you may address the accounting entries in skeleton-form).

b.) Has your overhead rate been examined by a Regulatory Agency in each of the last three (3) years? If yes, submit copies of the examination report for the years under exam.

5. Explain the flow of items from source documents (time sheets, invoices) to the general ledger. (Attach Flow Chart if available)

6. List current employees who may work on this contract by **name**, job classification and rate of direct compensation.

7. Does the firm have policy and procedure manuals for:

Accounting Yes _____ No _____

Billing Yes _____ No _____

Direct and

Indirect Costs Yes _____ No _____

Time Keeping Yes _____ No _____

Leave Yes _____ No _____

Fringe Benefits Yes _____ No _____

Overtime Yes _____ No _____

Travel/Meals Yes _____ No _____

8. Describe how the cost system accumulates and summarizes project costs. Attach input process, and output flow chart. (IPOF)
 9. Does the cost system labor summary reconcile with the payroll register and the general ledger?
 Yes _____ No _____
 10. Federal Identification Number _____

VERMONT AGENCY OF TRANSPORTATION

Personal Service Contract Consultant Financial Background Questionnaire (Continued From Front)

SECTION TWO

(Firms seeking estimated contract(s) valued from \$25,000 to \$250,000)

Attach a current overhead schedule prepared in accordance with Title 48 of the Code of Federal Regulations, Chapter 1, Part 31. **In accord with Part 31.203, indirect costs should pertain to and provide benefit to performance of contracts with the Vermont Agency of Transportation. Therefore, a field overhead rate, offsite overhead rate or otherwise adjusted overhead rate is required where applicable.** Also attach the following financial statements: balance sheet & income statement. All schedules and statements must cover a period ending no more than eighteen months prior to the proposal due date. They may be prepared by the submitting consultant or subconsultant as applicable, but preparation by an independent public accounting firm is preferred. If the above documents are current and on file with the Agency, do not resubmit them. A letter indicating the documents are on file with the Agency will be sufficient.

SECTION THREE

(Firms seeking estimated contract(s) valued at greater than \$250,000.)

Attach a current **audited** overhead schedule prepared in accordance with Title 48 of the Code of Federal Regulations, Chapter 1, Part 31. **In accord with Part 31.203, indirect costs should pertain to and provide benefit to performance of contracts with the Vermont Agency of Transportation. Therefore, an audited field office overhead rate, offsite overhead rate or otherwise adjusted overhead rate is required where applicable.** The overhead **audit** must be performed by an independent accounting firm or governmental body in accordance with generally accepted government auditing standards and practices. Sole proprietors and partners who cannot comply with this section should contact Contract Administration. Also attach the following financial statements: balance sheet & income statement. All schedules and statements must cover a period ending no more than eighteen months prior to the Proposal due date. The financial statements may be prepared by the submitting consultant or subconsultant, as applicable, but preparation by an independent public accounting firm is preferred. If the above documents are current and on file with the Agency, do not resubmit them. A letter indicating the documents are on file with the Agency will be sufficient.

NOTE: An audited overhead rate schedule does not guarantee acceptance by VAOT and is subject to review by VAOT and /or its representatives.

I hereby certify that the foregoing document and all attachments are a statement of facts:

Signature _____ Date _____

Title _____

(Principal only)

STATE OF _____

_____ COUNTY, SS.

Subscribed and sworn to me before this _____ day of _____, 19____

 NOTARY PUBLIC

Appendix G

Donations Eligibility for Credit Against Match Chart

DONATIONS**ELIGIBILITY FOR CREDIT AGAINST MATCH**

<u>Types of Donations</u>	<u>Eligibility</u>	<u>Conditions</u>	<u>Reference Comments</u>
<u>Real Property (ROW)</u>	Private – Yes	<ul style="list-style-type: none">• Determination of fair market value (excluding any changes caused by project)• Incorporated into project• Lawfully obtained in accordance w/ the Uniform Act – 49 CFR Part 24 (if specifically acquired for the project)• Donation does not influence environmental assessment	23 USC 323 (a) Property may be donated at any time during project development
	State – Yes	<ul style="list-style-type: none">• Determination of fair market value (excluding any changes caused by project)• Incorporated into project• Lawfully obtained in accordance w/ the Uniform Act – 49 CFR Part 24 (if specifically acquired for the project)• Donation does not influence environmental assessment	23 CFR 710.507 23 CFR 710.507(c) – noted exemptions Property may be donated at any time during project development
	Local Gov. - Yes	<ul style="list-style-type: none">• Determination of fair market value (excluding any changes caused by project)• Incorporated into project• Lawfully obtained in accordance w/ the Uniform Act – 49 CFR Part 24 (if specifically acquired for the project)• Donation does not influence environmental assessment	23 CFR 710.507 23 CFR 710.507(c) – noted exemptions Property may be donated at any time during project development
<u>Funds</u>	Private – Yes		23 USC 323 (c)
	State – Yes		23 USC 323 (c)
	Local Gov. – Yes		23 USC 323 (c)

	Federal – Yes	<ul style="list-style-type: none"> Federal Land Management Agencies <ul style="list-style-type: none"> ➤ National Forest Service ➤ National Park Service ➤ National Fish & Wildlife ➤ US Army Corps 	Refer to 23 USC 120(k)
		<ul style="list-style-type: none"> Federal Lands Highway Funds (access to or within Federal or Indian lands) 	Refer to 23 USC 120(l)
		<ul style="list-style-type: none"> Other Federal funds authorized by law 	
<u>Materials</u>	Private – Yes	<ul style="list-style-type: none"> Market value determined prior to FHWA construction authorization Needed for project 	23 USC 323 (c)
	State – No		23 USC 323 (c)
	Local Gov. – Yes	<ul style="list-style-type: none"> Market value determined prior to FHWA construction authorization Needed for project 	23 USC 323 (c)
<u>Services/ Equipment</u>	Private – Yes	<ul style="list-style-type: none"> Grantee must document Value determined prior to project authorization Needed for project 	23 USC 323 (c)
	State - No		23 USC 323 (c)
	Local Gov. - Yes	<ul style="list-style-type: none"> Grantee must document Value determined prior to project authorization Needed for project 	23 USC 323 (c)

References: 23 USC 323, 23 USC 120 & 23 USC 133 (all references are “as amended”).

REVISED: August 28, 2006

Appendix H

Sample Agreement with Design Consultant

EXAMPLE CONTRACT AGREEMENT WITH DESIGN CONSULTANT

Municipality of _____
Agreement for Consultant Engineering Services With

THIS AGREEMENT is made this _____ day of _____, 20____, by and between the municipality of _____, hereinafter referred to as the MUNICIPALITY and _____, a Vermont corporation, with its principal place of business at _____, hereinafter referred to as the CONSULTANT.

The MUNICIPALITY wishes to employ the CONSULTANT for the purpose of providing services to conduct engineering investigations, develop construction plans, specifications, and estimates, and provide design engineering services during the construction phase for the (project description).

WHEREAS state and federal funds may participate in the cost of the services described in this Agreement pursuant to the provisions of Title 23, United States Code; and 23 Code of Federal Regulations which are incorporated herein by reference; and

WHEREAS the CONSULTANT is ready, willing, and able to perform the required services;

NOW THEREFORE, in consideration of these premises and the mutual covenants herein set forth, it is agreed by the parties hereto as follows:

1. SCOPE OF WORK

The CONSULTANT shall provide services necessary to ensure the successful completion of the construction project under consideration as set forth in the Request for Proposal / Qualifications and Scope of Services dated _____, Attachment A, the CONSULTANT's Technical and Cost Proposal dated _____, Attachment B, and the "Consultant Contract Attachment" dated March 20____ (See LTF Guidebook); all of which are incorporated herein and made a part of this Agreement.

Should it become necessary for the CONSULTANT to procure sub-consultant services, this selection will be subject to approval. It is expected that any solicitations by the CONSULTANT will include reference to the Vermont Agency of Transportation's Disadvantaged Business Enterprises Policy.

2. BEGINNING OF WORK AND TERMINATION

This Agreement shall be effective upon execution and shall be completed on or before:

3. THE AGREEMENT FEE

A. General. The MUNICIPALITY agrees to pay the CONSULTANT and the CONSULTANT agrees to accept as full compensation for performance of all services and expenses encompassed under this Agreement, the (actual cost, firm fixed price, labor hour, etc.) to the CONSULTANT in accordance with the proposed (rates, etc.) as stated in Attachment B.

B. Maximum Limiting Amount. The total amount to be paid to the CONSULTANT for all services shall not exceed a maximum limiting amount of \$ [AMOUNT].

4. PAYMENT PROCEDURES

Invoices shall be submitted to the (Municipal Project Manager at specific address). One original and three copies are required.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first written above.

CONSULTANT NAME

ADDRESS

By: _____

Title: _____

MUNICIPALITY NAME

By: _____

Title: _____

Date: _____

Appendix I

Example Evaluation Matrix

EVALUATION MATRIX						
Category		Do Nothing	Treatments on Existing Alignments (Alt. Y)		Treatments on New Alignment	
			Replacement	Rehabilitation	Alt. X	Alt. Y
Cost	Roadway		\$580,000	\$580,000	\$710,000	\$680,000
	Structure		\$1,490,000	\$2,700,000	\$2,007,000	\$2,724,000
	Detour		\$195,000	\$195,000	\$0	\$0
	Traffic & Safety		\$50,000	\$50,000	\$50,000	\$50,000
	Total	0	\$2,315,000	\$3,525,000	\$2,767,000	\$3,454,000
Engineering	Typical Section	Insufficient	1.5-3.3-3.3-1.5	1.5-3.3-3.3-1.5	1.5-3.3-3.3-1.5	1.5-3.3-3.3-1.5
	Align. Change	0	0	0	52	40
	Bicycle Access	Travel Lane	Shoulder	Shoulder	Shoulder	Shoulder
	Hydraulic Performance	Sufficient	Better	Sufficient	Sufficient	Sufficient
	Utilities	No Impact	Aerial	Aerial	Aerial	Aerial
Impacts	Ag. Lands	None	5400 m5	5400 m5	-7500 m5	4500 m5
	Archaeological	None	400 m5	400 m5	1300 m5	50 m5
	Historic	None	Adverse	No Adverse	No Adverse	No Adverse
	Hazardous Materials	None	0	0	0	0
	Floodplains	None	2050 m5	2050 m5	1400 m5	4800 m5
	Fish & Wildlife	None	Minimal	Minimal	Moderate	Moderate
	Rare, Threatened & Endangered Species	None	None	None	None	None
	Public Lands – Sect. 4(f)	None	0	0	0	0
	LWCP – Sect. 6(f)	None	0	0	0	0
	Noise	None	No Change	No Change	No Change	No Change
	Wetlands	None	1500 m5	1500 m5	1550 m5	2250 m5
Local & Regional Issues	Concerns	Bridge Failure	No Concerns	Sight Distance	Maint. of Exist. Br.	Maint. of Exist. Br.
	Aesthetics	Unchanged	Minimal	Minimal	Negative	Negative
	Community Character	Unchanged	Relatively Unchanged	Relatively Unchanged	Negative	Negative
	Economic Impacts	Possible	None	None	Maint. of Exist. Br.	Maint. of Exist. Br.
	Conformance to Reg. Transportation Plan	No	Yes	Yes	Yes	Yes
	Satisfies Purpose & Need	No	Yes	Yes	Yes	Yes
Permits	ACT 250	No	28,550 m5 (no)	28,550 m5 (no)	34,850 m5 (no)	32,800 m5 (no)
	401 Water Quality	No	Yes	Yes	Yes	Yes
	404 COE Permit	No	Yes	Yes	Yes	Yes
	Stream Alteration	No	Yes	Yes	Yes	Yes
	Conditional Use Determination	No	Yes	Yes	Yes	Yes
	Storm Water Discharge	No	No	No	No	No
	Lakes & Ponds	No	No	No	No	No
	T & E Species	No	No	No	No	No
Other	SHPO	No	Yes	Yes	Yes	Yes

Appendix J

PACE – Template
CE Letter Analysis Sheet - Template



State of Vermont

Agency of Transportation

One National Life Drive
Montpelier, VT 05633-5001
www.aot.state.vt.us

Environmental Section
[phone] 802-~~xxx-xxxx~~
[fax] 802-828-2334
[tdd] 800-253-0191

Ernest Blais, Division Administrator
Federal Highway Administration
P.O. Box 568, Montpelier, VT 05601

---date-----

Attn: Kenneth R. Sikora, Environmental Program Manager

Re:

Dear Mr. Blais:

Project ----- is located -----.

Work to be performed under this contract includes -----.

The Vermont Agency of Transportation (VTrans) has considered the potential environmental consequences of the project in accordance with the National Environmental Policy Act (NEPA). VTrans has determined that this project meets all of the criteria specified in the Programmatic Agreement entitled "Processing of Projects Eligible for Categorical Exclusion," executed 6/25/99. The project qualifies for Categorical Exclusion pursuant to 23 CFR 771.117(-----) (-----) "Environmental Impact and Related Procedures - Categorical Exclusions" as the project consists of -----.

This project will not involve substantial planning, resources, or expenditures; nor is it likely to induce significant alterations in land use, planned growth, development patterns, traffic volumes, or traffic patterns. The project will have no significant effect upon natural and cultural resources. No significant environmental impact is expected to result from construction or maintenance of this facility.

[If wetlands are involved include the following]

VTrans has determined that the FHWA wetland finding contained in the Programmatic Agreement of 6/25/99 is applicable to this project.

Please contact -----, Environmental Specialist, ----- Region @ 802-828- ----- if you require additional information.

Respectfully,

John T. Narowski, P.E.
Environmental Services Engineer

Attachments

cc: , Project Manager
, Chief ROW
, Central Files; Project File

PROGRAMMATIC CATEGORICAL EXCLUSION CRITERIA (PACE)

VTrans has determined that this project will **NOT**:

- A. X Require a temporary detour outside existing right-of-way, or a temporary wetland or stream crossing which will require non-routine mitigation, or a ramp closure, unless the following conditions are met :
 - (1) provisions are made for access by local traffic and the facility is posted accordingly,
 - (2) businesses dependent upon through traffic will not be unduly affected,
 - (3) the temporary detour or ramp closure will not interfere with local special events,
 - (4) the temporary detour, ramp closure, wetland or stream crossing will not substantially increase the environmental consequences of the action (project).
- B. X Involve construction in wetlands totaling more than 5,000 square feet of permanent impacts, requiring the Army Corp of Engineers to coordinate with resource agencies per General Permit NAE 2007-24.
- C. X Require a Risk Analysis for an increase in 100-year flood water surface elevations, per EO 11988.
- D. X Involve construction within, or alter drainage patterns so as to adversely affect, a Sole Source Aquifer.
- E. X Require coordination with the US Fish and Wildlife Service for the preparation of a Biological Assessment for Threatened and Endangered Species, per 16 CFR Section 7.
- F. X Require acquisition of additional right-of-way (including permanent or temporary construction easements) involving: more than three acres of land per mile of roadway, or 10 acres total for a non-linear improvement (such as a bridge or an intersection), or any relocation of residences or businesses.
- G. X Require FHWA approval for changes in access control.
- H. X Involve acquisition of, or impacts upon Prime or Unique Farmland, unless a USDA Farmland Conversion Impact Rating Part VI Site Assessment has been completed and indicates Total Site Assessment Points less than 160.
- I. X Adversely Effect a historic or archaeological resource on, or eligible for inclusion on, the National Register of Historic Places.
- J. X Require use (permanent or temporary) of a Section 4(f) resource, unless that use meets the criteria for a Programmatic 4(f); or require use of a Section 6(f) resource (property acquired or improved using Land and Water Conservation Funds).
- K. X Involve hazardous or residual waste liabilities subject to CERCLA and/or RCRA requirements.
- L. X Require a bridge permit from the US Coast Guard, per 23CFR 650 Subpart H.
- M. X Qualify as a Type I project and require analysis of noise abatement measures, per 23 CFR 772 and the FHWA approved VAOT Noise Policy.

(NOTE: If coordination with the FHWA was required to reach this determination attach concurrence memo)

**Categorical Exclusion
Environmental Analysis Sheet**

Town _____ **Project No.** _____ **Route** _____

Project Setting: Urban _____ Village _____ Rural _____
 Traffic _____ Year _____ Typical _____

Project Purpose & Need:

The purpose of the project is: _____

The need for the project is due to: _____

Alternatives Considered:

Project Description:

The project will involve: _____

CRITERIA OF 23 CFR 771.117 (C) APPLICABLE? _____ **YES** _____ **NO**

NOTE: PROJECTS THAT MEET THE CRITERIA OF 23 CFR 771.17 (C) NEED ONLY ADDRESS THOSE ISSUES MARKED WITH AN ASTERISK (*). THIS DOES NOT PRECLUDE THE NEED TO OBTAIN APPLICABLE STATE & FEDERAL CONCURRENCES & PERMITS.

1. **Air Quality**
 Ten year increase in ADT _____ (10,000 allowed maximum per MOA)
 Urban intersection improvement Yes _____ No _____

2. **Noise**
 Alignment moved closer to developed property Yes _____ No _____
 If yes, apply nomograph. Results _____

3. **Water Quality**
 Lakes or Ponds

VANR Lakes & Ponds permit Yes _____ No _____ Acquired _____
Rivers or Streams

VANR Stream Alteration permit Yes _____ No _____ Acquired _____
Wetlands

* Involved Yes _____ No _____ Vermont Classification _____
* Wetland Impact area: Temporary _____ Permanent _____
* Buffer Impact area: Temporary _____ Permanent _____

* VANR Conditional Use Determ. Yes _____ No _____ Acquired _____

401 Water Quality Certification Yes _____ No _____ Acquired _____

Stormwater Discharge Permit Yes _____ No _____ Acquired _____

Flood plains Encroachment Yes _____ No _____ Area _____

Significance (Describe) _____

Ground Water/Surface Water/Well Impacts Yes _____ No _____

(Describe) _____

ANR Comments _____

4. **U.S. Army Corps of Engineers**

Section 10 and/or Section 404 Permit Required: Yes _____ No _____ Acquired _____

Permit Type _____

COE Comments _____

5. **U.S. Coast Guard**

Navigable Waters Yes _____ No _____ Involved Waterway _____

Rivers & Harbors Act Section 9 and/or

Bridge Act of 1946 Permit(s) Required: Yes _____ No _____ Acquired _____

Section 144(h) "Exemption": Yes _____ No _____ Acquired _____

USCG Comments: _____

6. **Threatened and Endangered Species and Habitat**

Present in Project Area Yes _____ No _____

ANR Non-Game and Natural Heritage Program comments _____

USF&WS comments _____

7. **Agricultural Land**

Prime/secondary/locally important soils affected Yes _____ No _____

Current Land Use _____

Form 1006 Parts I, III, VI, VII, completed Yes _____ No _____

Form 1006 Parts II, IV, V completed Yes _____ No _____

Vermont Department of Agriculture comments _____

8. **Hazardous/Residual Waste Liabilities**

Present in project area Yes _____ No _____

Determination from VANR list Yes _____ No _____

Determination from field visit Yes _____ No _____

Borings completed Yes _____ No _____

Petroleum related wastes Yes _____ No _____

CERCLA involvement Yes _____ No _____

Remediation required Yes _____ No _____

Describe _____

* 9. **Historical or Archaeological Resources (Section 106)**

Historic Resources: Present in project area Yes _____ No _____
Archeological Resources: Present in project area Yes _____ No _____
Section 106 findings _____
Memorandum of Agreement needed Yes _____ No _____ Executed _____
SHPO coordination completed _____
Advisory Council coordination completed _____

* 10. **Section 4(f) and 6(f) Resources**

Section 4(f) Resource(s) present in project area Yes _____ No _____
Nature of Section 4(f) involvement:
Parks/Rec. Areas _____ Wildlife and Waterfowl Refuge _____ Historic Property _____
Temporary use of 4(f) resource Yes _____ No _____
Permanent use of 4(f) resource Yes _____ No _____
Are *de minimis* impact criteria applicable, per SAFETEA-LU Section 6009(a)? Yes _____ No _____
Section 4(f) Approval (check one):
de minimis 4(f) _____ Programmatic 4(f) _____ FHWA Authorization _____

Circulated 4(f) _____ Dept of Interior Authorization _____ (Not required for de minimis or Programmatic)

Section 4(f) Comments: _____

Section 6(f) involvement (LWCF Funding) Yes _____ No _____

National Park Service Conversion Approval under Section 6(f) _____

Section 6(f) Comments: _____

* 11. **Right of Way**

New ROW Acquisition fee simple Yes _____ No _____
easement Yes _____ No _____
Description of taking _____
USDA-Forest Service involvement (GMNF) Yes _____ No _____
Improved properties acquired Yes _____ No _____
Displacements Rental Units _____ Private Homes _____ Businesses _____
Relocation services to be provided _____
Properties available for relocation _____

12. **Public Participation Opportunity**

Pre-Design Site meeting Yes _____ No _____ Date _____
Public Information meeting Yes _____ No _____ Date _____
Public Hearing required Yes _____ No _____ Date _____
Comments by Local Officials/RPC's _____

13. **Social & Economic Concerns**

Project consistent with local and Regional Land Use Plans Yes _____ No _____
Describe _____ (Attach correspondence from officials)
Neighborhood and Community Concerns Yes _____ No _____
_____ Churches _____ Elderly
_____ Schools _____ Minorities
_____ Low Income Housing _____ Handicapped
_____ Emergency Services _____ Environmental Justice Exec. Order 12898
Describe _____

Pedestrian facilities	Sidewalks \geq 5 ft.	Yes _____	No _____
Bicycle facilities	Paved Shoulders \geq 4 ft.	Yes _____	No _____
Describe _____			
Effect on local business	Yes _____	No _____	(Describe) _____
Temp. effect on business	Yes _____	No _____	(Describe) _____
Loss of Parking	Yes _____	No _____	(Describe) _____

14. **Temporary Effects or Aesthetic Concerns**
- | | | | |
|--|-----------|----------|-----------------------------|
| Detour required | Yes _____ | No _____ | Length _____ (Attach Plans) |
| Temporary bridge required | Yes _____ | No _____ | (Attach Plans) |
| Adverse effects _____ | | | |
| Public and public official notification or involvement _____ | | | |
| Scenic Byway/VT Scenic Highway | Yes _____ | No _____ | |
| National/State Forest Highway | Yes _____ | No _____ | |
| Describe _____ | | | |

Field Inspection Comments: _____

Prepared by: _____	Reviewed by: _____
Signature	Signature
Date	Date

Impact Mitigation Requirements

Describe: _____



State of Vermont

Agency of Transportation

One National Life Drive
Montpelier, VT 05633-5001
www.aot.state.vt.us

Environmental Section
[phone] 802-~~xxx-xxxx~~
[fax] 802-828-2334
[tdd] 800-253-0191

Ernest J. Blais, Division Administrator
Federal Highway Administration
P.O. Box 568, Montpelier, VT 05601

[Date spelled out]

Attn: Kenneth R. Sikora, Environmental Program Manager

Re: [Project name]

Dear Mr. Blais:

Project _____ is located on _____ beginning at _____
_____ and extending _____

Construction will consist of _____ [include temporary
detour info. if required]

The Vermont Agency of Transportation (VTrans) has considered the potential environmental consequences of the project in accordance with the National Environmental Policy Act (NEPA). VTrans recommends the project be classified as a Categorical Exclusion pursuant to 23 CFR 771.117() () "Environmental Impact and Related Procedures - Categorical Exclusions" as the project consists of _____

The project will not involve substantial planning, resources, or expenditures; nor is it likely to induce significant alterations in land use, planned growth, development patterns, traffic volumes, or traffic patterns. No significant environmental impact is expected to result from construction or maintenance of this facility.

However, the project will involve [describe any resource effects indicated on environ. analysis sheet]

Please contact [Environmental Specialist name and phone #] if you need additional information.

Respectfully,

John T. Narowski, P.E.
Environmental Services Engineer

Endorsement to the Vermont Agency of Transportation

Concur _____
[name] _____ Date _____

[if project will affect wetlands, include the following]

Based upon documentation provided, it has been determined that there is no practicable alternative to the proposed construction in wetlands and that the proposed action includes all practicable measures to minimize harm to wetlands which might result from such use.

Endorsement to the Vermont Agency of Transportation

Concur _____
[name] Date

Attachments

cc:

, Project Manager

, Chief ROW

Central Files

Project File

**Categorical Exclusion
Environmental Analysis Sheet**

Town _____ **Project No.** _____ **Route** _____

Project Setting: Urban _____ Village _____ Rural _____
 Traffic _____ Year _____ Typical _____

Project Purpose & Need:

The purpose of the project is: _____

The need for the project is due to: _____

Alternatives Considered:

Project Description:

The project will involve: _____

CRITERIA OF 23 CFR 771.117 (C) APPLICABLE? **YES** **NO**

**NOTE: PROJECTS THAT MEET THE CRITERIA OF 23 CFR 771.17 (C) NEED ONLY ADDRESS THOSE ISSUES MARKED WITH AN
ASTERISK (*). THIS DOES NOT PRECLUDE THE NEED TO OBTAIN APPLICABLE STATE & FEDERAL CONCURRENCES & PERMITS.**

1. **Air Quality**
 Ten year increase in ADT _____ (10,000 allowed maximum per MOA)
 Urban intersection improvement Yes _____ No _____

2. **Noise**
 Alignment moved closer to developed property Yes _____ No _____
 If yes, apply nomograph. Results _____

3. **Water Quality**
 Lakes or Ponds

VANR Lakes & Ponds permit Yes _____ No _____ Acquired _____
Rivers or Streams

VANR Stream Alteration permit Yes _____ No _____ Acquired _____

Wetlands

* Involved Yes _____ No _____ Vermont Classification _____

* Wetland Impact area: Temporary _____ Permanent _____

* Buffer Impact area: Temporary _____ Permanent _____

* VANR Conditional Use Determin. Yes _____ No _____ Acquired _____

401 Water Quality Certification Yes _____ No _____ Acquired _____

Stormwater Discharge Permit Yes _____ No _____ Acquired _____

Flood plains Encroachment Yes _____ No _____ Area _____

Significance (Describe) _____

Ground Water/Surface Water/Well Impacts Yes _____ No _____

(Describe) _____

ANR Comments _____

4. **U.S. Army Corps of Engineers**

Section 10 and/or Section 404 Permit Required Yes _____ No _____ Acquired _____

Permit Type _____

COE Comments _____

5. **U.S. Coast Guard**

Navigable Waters Yes _____ No _____ Involved Waterway _____

Rivers & Harbors Act Section 9 and/or

Bridge Act of 1946 Permit(s) Required: Yes _____ No _____ Acquired _____

Section 144(h) "Exemption": Yes _____ No _____ Acquired _____

USCG Comments: _____

6. **Threatened and Endangered Species and Habitat**

Present in Project Area Yes _____ No _____

ANR Non-Game and Natural Heritage Program comments _____

USF&WS comments _____

7. **Agricultural Land**

Prime/secondary/locally important soils affected Yes _____ No _____

Current Land Use _____

Form 1006 Parts I, III, VI, VII, completed Yes _____ No _____

Form 1006 Parts II, IV, V completed Yes _____ No _____

Vermont Department of Agriculture comments _____

8. **Hazardous/Residual Waste Liabilities**

Present in project area Yes _____ No _____

Determination from VANR list Yes _____ No _____

Determination from field visit Yes _____ No _____

Borings completed Yes _____ No _____

Petroleum related wastes Yes _____ No _____

CERCLA involvement Yes _____ No _____

Remediation required Yes _____ No _____

Describe _____

* 9. **Historical or Archaeological Resources (Section 106)**

Historic Resources: Present in project area Yes _____ No _____
Archeological Resources: Present in project area Yes _____ No _____
Section 106 findings _____
Memorandum of Agreement needed Yes _____ No _____ Executed _____
SHPO coordination completed _____
Advisory Council coordination completed _____

* 10. **Section 4(f) and 6(f) Resources**

Section 4(f) Resource(s) present in project area Yes _____ No _____
Nature of Section 4(f) involvement:
Parks/Rec. Areas _____ Wildlife and Waterfowl Refuge _____ Historic Property _____
Temporary use of 4(f) resource Yes _____ No _____
Permanent use of 4(f) resource Yes _____ No _____
Are *de minimis* impact criteria applicable, per SAFETEA-LU Section 6009(a)? Yes _____ No _____
Section 4(f) Approval (check one):
de minimis 4(f) _____ Programmatic 4(f) _____ FHWA Authorization _____
Circulated 4(f) _____ Dept of Interior Authorization _____ (Not required for de minimis or Programmatic)
Section 4(f) Comments: _____

Section 6(f) involvement (LWCF Funding) Yes _____ No _____
National Park Service Conversion Approval under Section 6(f) _____
Section 6(f) Comments: _____

* 11. **Right of Way**

New ROW Acquisition fee simple Yes _____ No _____
easement Yes _____ No _____
Description of taking _____
USDA-Forest Service involvement (GMNF) Yes _____ No _____
Improved properties acquired Yes _____ No _____
Displacements Rental Units _____ Private Homes _____ Businesses _____
Relocation services to be provided _____
Properties available for relocation _____

12. **Public Participation Opportunity**

Pre-Design Site meeting Yes _____ No _____ Date _____
Public Information meeting Yes _____ No _____ Date _____
Public Hearing required Yes _____ No _____ Date _____
Comments by Local Officials/RPC's _____

13. **Social & Economic Concerns**

Project consistent with local and Regional Land Use Plans Yes _____ No _____
Describe _____ (Attach correspondence from officials)
Neighborhood and Community Concerns Yes _____ No _____
_____ Churches _____ Elderly
_____ Schools _____ Minorities
_____ Low Income Housing _____ Handicapped
_____ Emergency Services _____ Environmental Justice Exec. Order 12898
Describe _____
Pedestrian facilities Sidewalks ≥ 5 ft. Yes _____ No _____
Bicycle facilities Paved Shoulders ≥ 4 ft. Yes _____ No _____

Describe _____
Effect on local business Yes _____ No _____ (Describe) _____
Temp. effect on business Yes _____ No _____ (Describe) _____
Loss of Parking Yes _____ No _____ (Describe) _____

14. **Temporary Effects or Aesthetic Concerns**
Detour required Yes ____ No ____ Length _____ (Attach Plans)
Temporary bridge required Yes _____ No _____ (Attach Plans)
Adverse effects _____
Public and public official notification or involvement _____
Scenic Byway/VT Scenic Highway Yes _____ No _____
National/State Forest Highway Yes _____ No _____
Describe _____

Field Inspection Comments: _____

Prepared by: _____ _____ Reviewed by: _____ _____
 Signature Date Signature Date

Impact Mitigation Requirements

Describe: _____

Document Template **Last Revised: 09/15/08**

Appendix K

Vermont Environmental Laws and Regulations

VERMONT ENVIRONMENTAL LAWS AND REGULATIONS

(UPDATE COMING SOON)

The Vermont Agency of Transportation (VTrans) is required to comply with the following State Laws and Regulations for all activities involving State Funds, including participation in Municipal Transportation projects.

Title 10 VSA Chapter 37 Section 905 (7) ***“The Vermont Wetland Rules”***

- A. Protect wetlands, which are determined to be “so significant that they merit protection”.
- B. Establish Criteria for evaluating wetland significance.
- C. Establish Allowed wetland uses and provide for Conditional wetland uses.
 - 1. Conditional uses require a Determination by the Secretary of the Agency of Natural Resources (ANR). A Conditional Use Determination (CUD) will only be issued upon conclusion that the proposed activity will have no undue adverse effect on protected functions of the wetland or that the impacts are sufficiently mitigated.

Title 10 VSA Chapter 41 ***“Regulation of Stream Flow”***

- A. Protects all waters of the State.
- B. Establishes the ANR as Certifying Agency for Section 401 of the Federal Clean Water Act.
- C. Requires consultation with the ANR prior to altering or modifying the course, current or cross-section of waters of the State.
 - 1. Consultation is accomplished through the ANR Stream Alteration Permit (SAP) process.

Title 10 VSA Chapter 151 ***“The Land Use and Development Law, Act 250”***

- A. Was established “to protect and conserve the lands and the environment of the state and to insure that these lands and environment are devoted to uses, which are not detrimental to the public welfare and interests”.
- B. Established “a state environmental board and district environmental commissions....to regulate the use of lands”.
- C. Established Conditions and Criteria for the issuance of permits by the district commissions.
- D. Is applicable to “Construction by state or local government if the project involves more than 10 acres”.
- E. Also applies to “substantial changes” in pre-existing developments

Title 19 VSA Chapter 25

“The Scenic Road Law of 1977”

- A. Protects roads designated as scenic under the Vermont Scenic Roads program.
- B. Requires that reconstruction or improvements conform with standards established by the Transportation Board.

Title 22 VSA Chapter 14

“The Historic Preservation Act of 1975”

- A. Established the VT Advisory Council on Historic Preservation and the Division for Historic Preservation, headed by the State Historic Preservation Officer (SHPO), to identify and protect historic and archaeological resources.
- B. Requires all State Agencies to consult the Advisory Council before altering any property that is potentially of historical, architectural, archaeological or cultural significance.
- C. Requires all State agencies and municipalities to cooperate with the State Archaeologist in the preservation, protection, excavation, and evaluation of specimens and sites.

Title 24 VSA Chapter 117

“Municipal and Regional Planning and Development, Act 200”

- A. Established a specific set of goals to encourage appropriate development of all lands in the state, and provided means for prevention of land development problems.
- B. Created a Council of Regional Commissions to review state agency and regional plans.
- C. Prohibits state agencies from preparing, adopting, or implementing plans, which are inconsistent with said goals.

Title 29 VSA Chapter 11 Sections 403 and 404

“Management of Lakes & Ponds”

- A. Protects public waters and lands below mean water level.
- B. Requires a Lakes & Ponds Permit from the ANR Water Resources Board for construction involving temporary or permanent encroachment (such as concrete, sheet piling, earth or rock fill, or similar construction).
 - 1. The Water Resources Board will require proof that the encroachment will not adversely effect the public good.

The Endangered Species Act of 1981

- A. Protects threatened or endangered plants and animals.
- B. Requires possession of a Threatened & Endangered Species (T&E) Permit before one can take, possess, transport or transplant threatened or endangered species.
 - 1. T&E Permits are acquired through coordination with the ANR.

Executive Order No. 52-80, 3 VSA App. Ch. 3

- A. Protects farmland.
- B. Requires coordination with the Department of Agriculture to avoid or minimize impacts on farmlands.

The Memorandum of Understanding between the Agency of Transportation (VTrans) & Agency of Natural Resources (ANR) regarding Bridge Rehabilitation & Replacement

- A. Provides for cooperation between the ANR and VTrans to provide for the State's dual needs to protect the environment and to provide for safe and efficient transportation.
- B. Requires site visits during the Conceptual Plan stage for the VTrans, ANR, and Town to identify issues involved.
- C. Requires cooperation between agencies to address unresolved issues prior to completion of Preliminary Plans.

<u>LIST OF STATE PERMITS AND APPROVALS</u>	
Agency	<u>Permit or Approval</u>
ANR	Lakes and Ponds – permit
ANR	Stream Alteration – permit
ANR	Wetlands Conditional Use Determination – clearance
ANR	Storm Water Discharge – permit
ANR	Threatened & Endangered Species – permit
Department of Agriculture	Executive Order 52 – coordination
Environmental Board	Land Use Regulation Act 250 – permit
SHPO	Vermont Historic Preservation Act – clearance

Appendix L

Federal Environmental Laws and Regulations

FEDERAL ENVIRONMENTAL LAWS AND REGULATIONS

(UPDATE COMING SOON)

The Vermont Agency of Transportation (VTrans) is required to comply with the following Federal Laws and Regulations for all activities involving Federal Funds or requiring permits from Federal Agencies, including participation in Town Transportation projects.

Section 106 of the National Historic Preservation Act of 1966

- D. Protects historic and archaeological resources. Potential resources include; Houses, bridge, historic districts, and historic & prehistoric sites.
- E. Requires Federal Agencies to determine the effect of projects, which they fund or permit, on historic resources.
 - 2. The Advisory Council on Historic Preservation (ACHP) is responsible for reviewing the effects of projects on historic and archaeological properties.
 - 3. The Army Corps of Engineers (COE) requires historic and archaeological resource coordination on projects involving wetlands and waters of the US.
 - 4. VTrans coordinates with the VT State Historic Preservation Office (SHPO) to address the Section 106 process during project planning and construction.

Section 4(f) of the Dept. of Transportation Act of 1966

- A. Protects lands described under Section 4(f) from transportation project impacts. Potential 4(f) lands include: public parks, recreation areas, historic houses structures and districts on or eligible for the National Register, etc.
- B. Prohibits the Department of Transportation (DOT), Federal Highway Administration (FHWA), from approving a transportation project which requires the “use” of 4(f) land of National, State, or Local significance unless it is Determined that:
 - 1. there is no feasible and prudent alternative to the use of such land, and
 - 2. the project includes all possible planning to minimize harm to such land resulting from such use
- C. Definition - a “use” occurs:
 - 1. when land from a Section 4(f) site is acquired for a project, or
 - 2. when occupancy of the 4(f) land is adverse in terms of the statute’s preservation purposes, or
 - 3. when proximity impacts of a project are so great that the purposes for which the site exists are “substantially impaired”.
- D. A “Determination of No Feasible and Prudent Alternative” must document “unique problems or unusual factors involved in the use of alternatives” or that “the cost, environmental impact, or community disruption resulting from such alternatives reach extraordinary magnitude.” Unique Problems include adverse factors such as socioeconomic impacts, safety and geometric constraints, decreased traffic service, etc. and may be considered collectively to show that an alternative presents unique problems.

Section 6(f) of the Land & Water Conservation Act of 1965

- A. Preserves, develops, and assures the quality and quantity of outdoor recreation resources for present and future generations through purchase and improvement of recreational lands, wildlife and waterfowl refuges, and such resources, with Land and Water Conservation Funds (LWCF).
- B. Protects LWCF lands from conversion to “non-public” outdoors recreational uses.
- C. Allows conversions only on approval from the Secretary of the Interior.

The National Environmental Policy Act of 1969 (NEPA)

- A. Requires federal agencies to consider the environmental impacts of all projects involving federal funds.
- B. Requires public participation.
- C. Requires preparation of an Environmental Document describing all environmental considerations involved in the project.
 - 1. An Environmental Impact Statement (EIS) is required for projects having significant impacts. An Environmental Assessment (EA) is prepared for projects having limited impacts of uncertain significance. A Categorical Exclusion (CE) is prepared for projects that will not have significant impacts.
 - 2. Environmental considerations may include: air, noise & water quality; wetlands; water bodies; wildlife; floodplains; wild and scenic rivers; T&E species; historic & archaeological resources; hazardous wastes; land use; farmlands; use vs. productivity; commitment of resources; social impacts; relocation; economics; joint federal uses; pedestrian; bicycles; aesthetics and other items.

The Farmland Protection Policy Act of 1981

- A. Protects farmland and seeks to maximize compatibility with state and local farmland programs and policies.
- B. Requires early coordination with the USDA Soil Conservation Services (SCS), completion of a Farmland Conversion Impact Rating, and determination of whether or not to proceed with conversion based on the severity of impacts and other environmental considerations.

The Federal Clean Air Act

- A. Protects and seeks to improve the nation's air quality to promote public health and welfare.
- B. Requires conformance with State Implementation Plans (SIP) and Transportation Control Measures (TCM) in non-attainment areas. The State of Vermont is not presently a non-attainment area, and so is in conformance.

Executive Order 11988 “Floodplain Management”

- A. Addresses avoidance of adverse impacts associated with occupancy and modification of floodplains.

- B. Requires assessment of flood hazards.
- C. Requires a specific finding statement in the NEPA document.

Executive Order 11990 “Protection of Wetlands”

- A. Requires federal agencies to: “avoid to the extent possible...destruction or modification of wetlands”; “avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative”; “avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds that there is no practicable alternative to such construction and that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use.”
 - 1. If wetlands are impacted, a specific wetland finding based on Executive Order 11990 is required in the NEPA document.

The Wild & Scenic Rivers Act of 1982

- A. Protects and preserves rivers listed on the National Wild and Scenic Rivers System and their immediate environments.
 - 1. There are no Wild & Scenic Rivers currently listed for Vermont.

The Fish & Wildlife Coordination Act of 1958

- A. Provides for protection of fish and wildlife resources when federal actions, such as permitting, control or modify a natural stream or body of water.
- B. Requires consultation with the US Fish & Wildlife (USFW) to determine if there is a need for, and to develop, mitigation measures.

The Resource Conservation & Recovery Act of 1976 and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

- A. Established guidelines concerning liabilities for hazardous wastes on projects involving federal participation.
- B. Requires avoidance or remediation measures if hazardous materials are involved.

Section 401 of the Clean Water Act of 1977

- A. Established procedures to protect water quality by regulating discharges.
- B. Requires applicants for Section 404 permits to obtain a certification or waiver from the state water pollution control agency (VTANR) to discharge dredged or fill materials.
 - 1. In Vermont, 401 Water Quality Certification (WQC) is contained in the SAP, CUD, or Lakes & Pond permit.

Section 404 of the Federal Water Pollution Control Act of 1972 as amended by the Clean Water Acts of 1977 & 1987

- A. Prevents water pollution by regulating discharges of dredged or fill material into waters of the US.
 - 1. Discharge includes placement of any permanent or temporary fill necessary for the construction of a structure.
 - 2. Waters of the US include: navigable waters (Lake Champlain, Lake Memphremagog); all tributaries to navigable waters of the US where the degradation or destruction of those waters could affect interstate or foreign commerce.
- B. Requires a permit for discharge of fill in waters of the US. The Permit program is administered by the US Army Corps of Engineers (COE).
 - 1. General permits are granted for activities involving minimal or insignificant environmental impacts.
 - 2. Nationwide permits are a series of permits granted for certain minor projects as defined in the Corps regulations.
 - 3. Individual permits are required for projects, which do not fall under the criteria for general or nationwide permits.
 - 4. All 404 permits require a Section 106 determination and a Section 401 Water Quality Certification.
- C. The COE bases the decision to issue a permit on evaluation of impacts identified during a Public Interest Review, and compliance with the 404(b)(1) guidelines.
 - 1. The Public Interest Review: Provides for evaluation of the probable impacts of a proposed project on public interest: Considers environmental, social, and economic concerns of the public: Includes comments of federal, state, and local agencies, as well as the general public.
 - 2. The EPA 404(b)(1) guidelines prohibit discharges: where less environmentally damaging, practicable alternatives exist: which result in violations of State or Federal Water Quality Standards, the Endangered Species Act, or the Marine Sanctuaries Act: which cause or contribute to significant degradation of waters and wetlands: where appropriate and practical mitigation has not been taken; or if there is not sufficient information to determine compliance.
 - 3. If the project is in compliance with 404(b)(1), and is not contrary to the public interest, the COE will grant a permit.

Title 23 USC as amended by the 1991 Intermodal Surface Transportation Efficiency Act (ISTEA)

- A. Contains the Federal Regulations governing the operations of the National Highway Traffic Safety Administration and the Federal Highway Administration, divisions of the US Department of Transportation.
- B. Requires, and provides for, compliance with other Federal Regulations governing: land, water, air, natural, cultural, physical, and other resources of, or within, the United States.
- C. Established a National Highway System to focus federal resources on interstate and non-interstate highways of major regional importance.
- D. Requires State to establish continuing transportation planning processes and provides twenty minimum considerations to encourage intermodal efficiency and provide greater flexibility in use of federal funds for activities that enhance the environment, such as wetland banking,

mitigation of impacts upon wildlife habitat, historic sites, bicycle and pedestrian projects, and highway beautification.

<u>LIST OF FEDERAL PERMITS AND APPROVALS</u>	
Agency	<u>Permit or Approval</u>
ACHP	Historic Preservation Act Section 106 – review
COE	Clean Water Act Section 401 – certification
COE	Water Pollution Control Act Section 404 – permit
DOI	Land & Water Conservation Act Section 6(f) – approval
EPA	National Environmental Policy Act – approval
FHWA	Dept. of Transportation Act Section 4(f) – determination
SCS	Farmland Protection Policy Act – determination
USFW	Fish & Wildlife Coordination Act – Coordination

Appendix M

Utility Relocation Agreement A

AGREEMENT A
(reimbursable relocation work)

(UPDATE COMING SOON)

UTILITY RELOCATION AGREEMENT

Owner: _____

Project Number: _____

Expenditure Account/Subjob: _____

THIS AGREEMENT, made and concluded by and between the Municipality of _____, hereinafter referred to as the MUNICIPALITY, and the _____, duly organized and existing in the State of Vermont with its principal place of business at _____, hereinafter referred to as the OWNER;

WITNESSETH:

WHEREAS, the MUNICIPALITY has developed a project identified as _____ which shall provide certain improvements on _____ in the town of _____, and

WHEREAS, it is evident that adjustment to, and/or replacement of, the OWNER's facilities, hereinafter referred to as RELOCATION WORK, are required by proposed construction of said improvements and does not include work solely benefiting the OWNER, its contractor, or the contractor; and

WHEREAS, Federal funds may participate in the cost of the services described in this agreement, pursuant to the provisions of Title 23, United State Code; and Title 23, Code of Federal Regulations (CFR) Part 645, which are incorporated herein by reference in the same proportion as Federal funds expended on the above captioned project and as follows.

THE MUNICIPALITY AND THE OWNER MUTUALLY AGREE:

Scope of the Work

That the RELOCATION WORK, detailed plans and estimates of which are attached hereto and made a part hereof, consists of:

- a. Preliminary engineering and associated costs described as follows:
- b. Right-of-way acquisition (easements, rights of entry, etc.), described as follows:
- c. Construction work to be accomplished by the OWNER described as follows:
- d. Construction work to be accomplished for the OWNER by the MUNICIPALITY acting through its prime contractor, described as follows:

- e. Quality control and on-the-job inspection of the work described in paragraph (d) above, by the OWNER or a representative employed by the OWNER:

Payment

State and/or Federal funds will participate, at the pro rata share applicable, for costs for the RELOCATION WORK in accordance with 23 CFR 645.107, in that;

- a. the utility has the right of occupancy in its existing location because it holds the fee, an easement, or other real property interest, the damaged or taking of which is compensable in eminent domain.
- b. the utility occupies privately or publicly owned land, including public road or street right-of-way.
- c. the utility occupies publicly owned land, including public road and street right-of-way, and is owned by a public agency or political subdivision of the state, and is not required by law or agreement to move at its own expense.

Cost components of the estimates, noted in Scope of Work, are allocated and itemized:

	Owner's Cost	Municipality's Cost	Total Cost
Preliminary Engineering			
Right-of-Way			
Construction Work By Owner			
Construction Work By Municipality			
Quality Control			
TOTAL			

The cost estimate development and reimbursement will be in accordance with Title 23, Code of Federal Regulation, Chapter 1, Part 645.117. Cost estimated to be \$_____

Cost sharing summarized above reflects credit due the MUNICIPALITY for betterment afforded by the RELOCATION WORK, calculated in accordance with 23 CFR 645.117(h) in the estimated amount of \$_____

Reimbursement for any of the above estimated amounts, which are based on actual costs of the work, shall be _____ percent of the actual direct and related indirect costs. The basis for arriving at this percentage is attached hereto.

Progress payments to the OWNER by the MUNICIPALITY in the amount of 95% of approved billing may be authorized. Final payment will be made following audit of the OWNER's records by a representative of the MUNICIPALITY, except that when reimbursement on a lump sum basis has been agreed to, audit will not be required.

Increases in the scope and cost of the RELOCATION WORK shall be authorized by a supplemental agreement initiated by the OWNER by submitting to the MUNICIPALITY, in writing, an itemized estimate and justification of the additional costs claimed.

Effective Dates

The following dates shall be authorized dates for charges of the RELOCATION WORK. Costs and expenses incurred prior to these dates are not eligible for reimbursement.

- a. Preliminary engineering and right-of-way investigating was authorized as of _____
- b. Right-of-way acquisition was authorized as of _____
- c. Following execution of this agreement, the MUNICIPALITY will establish a date, in writing, after which the OWNER will be authorized to incur construction, quality control and inspection costs. If not otherwise determined, the effective date shall be the date of execution of this agreement.

Termination

That upon completion of the RELOCATION WORK and final payment of any money due under the terms of this agreement, this agreement shall terminate. Upon termination of the agreement, the relationship between the MUNICIPALITY and the OWNER with respect to the OWNER's facilities shall be in accordance with applicable State and Federal laws and regulations governing the operation of utility facilities within public highways.

THE MUNICIPALITY AGREES:

That, acting through its prime contractor, it shall perform the RELOCATION WORK described in the "Scope of Work" section (d) in accordance with the plans and specifications.

That it shall require the construction project to be prosecuted at all times with reasonable care in accordance with the Standard Specifications for Construction, as modified by such special provisions as may be attached to the construction contract.

That the OWNER and its agents shall be granted access within the limits of the construction projects at all times during the life of the project for the purpose of operating, maintaining, relocating or reconstructing its facilities.

That the OWNER shall be notified at least twenty-four (24) hours in advance of a planned interruption to the normal usage of the OWNER's facilities.

THE OWNER AGREES:

That the plans for the RELOCATION WORK are based on standards which conform to or exceed the minimum requirements of all applicable National, State and Local codes and

regulations and that the OWNER is solely responsible for the operation and maintenance of utility plant covered by or completed under this agreement in conformity with such standards.

To purchase all necessary rights-of-way and easements as are required to accommodate the RELOCATION WORK, and to secure such permits and approvals as are required.

To accomplish all RELOCATION WORK described in the "Scope of Work" section (c), furnishing all labor, materials and equipment necessary to complete the work.

To provide quality control and on-the-job inspection of materials and construction methods used in the RELOCATION WORK described in the "Scope of Work" and to save the MUNICIPALITY free and harmless from any responsibility therefore, except where the MUNICIPALITY shall disregard written exceptions filed with the MUNICIPALITY by the inspector for the OWNER.

To cooperate with other utility companies, the MUNICIPALITY, and contractors employed by the MUNICIPALITY, and to carry out its activities in such a way as not to obstruct or delay other work being performed within the project area.

To abide by the applicable provisions of Attachment #1 "Construction Conditions", which is attached hereto and made a part hereof.

To notify the MUNICIPALITY of any substantial changes in the scope of character of the RELOCATION WORK, as soon as the need for such change becomes apparent.

To notify the MUNICIPALITY at least twenty-four (24) hours in advance of beginning or resuming RELOCATION WORK for which reimbursement will be claimed.

To submit to the MUNICIPALITY, upon request, weekly progress reports of labor, materials and equipment used in the RELOCATION WORK.

To maintain in good and safe condition its plant and facilities located within the project limits and to repair any property damage resulting from such maintenance to the satisfaction of the MUNICIPALITY.

To accept facilities constructed in the RELOCATION WORK described in paragraph (d) immediately upon completion and demonstrated capability of the system to function as intended.

To accumulate all actual direct and related indirect costs by means of special work orders or job orders in accordance with the accounting procedures used in its regular work.

That any progress or final billing submitted to the MUNICIPALITY will include receipted bills from third parties where applicable and a detailed statement of labor, material, equipment and incidental expenses incurred in the RELOCATION WORK during the billing period.

To submit final billing for reimbursement to the MUNICIPALITY within 120 days after completion of the work, such billing to contain the information required by 23 CFR 645.117(I).

To allow authorized representatives of the MUNICIPALITY, the State of Vermont and the Federal Highway Administration to audit its utility cost records as may be required in determining reimbursement, including investigation of all records and any stipulation made by the OWNER as to the derivation of betterment and expired service life, if any, and to retain such records for a minimum of three years after final payment has been received.

This agreement shall be binding upon the successors and assigns of the respective parties hereto:

IN WITNESS WHEREOF, the parties to this agreement have executed the same this _____ day of _____, AD, _____, the MUNICIPALITY, by Duly Authorized Agent, and the OWNER by its authorized agent.

IN WITNESS WHEREOF:

OWNER:

BY:

(Authorized Agent)

(Title)

IN WITNESS WHEREOF:

OWNER:

BY:

(Authorized Agent)

(Title)

CONSTRUCTION CONDITIONS

1. All communications between the OWNER, contractors, and any other parties having an interest in the construction contract shall be via the MUNICIPALITIES' representative on the project.
2. All logs, trees, underbrush, slash, etc. resulting from clearing operations associated with relocation work shall be burned or otherwise disposed of by the OWNER or its agents, as directed by the MUNICIPALITY.
3. Any burning associated with construction activities or maintenance operations performed under this agreement shall not use tires or similar manufactured products as ignition material. The OWNER is responsible for procuring all permits or rights necessary for such disposal.
4. Abandoned, unused or junk materials associated with the Relocation Work shall be disposed of by the OWNER in a manner approved by the MUNICIPALITY, except that abandoned underground facilities shall become the property of the contractor, and may not be acquired by the OWNER or the MUNICIPALITY.
5. Material disturbed by the placement of underground facilities which will ultimately be located beneath the highway subgrade shall be compacted as required by the highway construction contract and in a manner approved by the MUNICIPALITY.
6. Maintenance of utility plants located within operation limited – access highway facilities must be conducted from outside the limited – access facility where it is reasonably possible to do so.
7. Project signing and traffic control shall be in conformance with the MUTCD, Agency of Transportation Standard E-10, and any additional signing or traffic control deemed necessary. (MUTCD available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402).

Appendix N

Utility Relocation Agreement B

AGREEMENT B
(non-reimbursable relocation work)

(UPDATE COMING SOON)

UTILITY RELOCATION AGREEMENT

Owner: _____

Project Number: _____

Expenditure Account/Subjob: _____

THIS AGREEMENT, made and concluded by and between the Municipality of _____, hereinafter referred to as the MUNICIPALITY, and the _____, duly organized and existing in the State of Vermont with its principal place of business at _____, hereinafter referred to as the OWNER;

WITNESSETH:

WHEREAS, the MUNICIPALITY has developed a project identified as _____ which shall provide certain improvements on _____ in the town of _____, and

WHEREAS, it is evident that adjustment to, and/or replacement of, the OWNER's facilities, hereinafter referred to as RELOCATION WORK, are required by proposed construction of said improvements.

THE MUNICIPALITY AND THE OWNER MUTUALLY AGREE:

Scope of the Work

That the RELOCATION WORK, detailed plans and estimates of which are attached hereto and made a part hereof, consists of:

- f. Construction work to be accomplished by the OWNER described as follows:
- g. Construction work to be accomplished for the OWNER by the MUNICIPALITY acting through its prime contractor, described as follows:
- h. Quality control and on-the-job inspection of the work described in paragraph (b) above, by the OWNER or a representative employed by the OWNER, shall be provided to assure the installation meets with the OWNER's approval. However, it should be expressly understood that the OWNER, or his representative, shall at all times work through the MUNICIPALITY's Engineer and not directly with the MUNICIPALITY's Contractor.

Payment

- a. Reimbursement by the OWNER to the MUNICIPALITY will be based on unit bid prices and actual quantities installed. Detailed plans and corresponding estimate of \$ _____ is attached hereto and made apart hereof.
- b. Increases, or changes, in the scope and cost of the RELOCATION WORK shall only be authorized by a Supplementary Agreement, fully executed by the parties to this Agreement. Such Supplementary Agreement shall be supported by a detailed estimate of the cost changes.

Termination

That upon completion of the RELOCATION WORK and final payment of any money due under the terms of this agreement, this agreement shall terminate. Upon termination of the agreement, the relationship between the MUNICIPALITY and the OWNER with respect to the OWNER's facilities shall be in accordance with applicable State and Federal laws and regulations governing the operation of utility facilities within public highways.

THE MUNICIPALITY AGREES:

That, acting through its prime contractor, it shall perform the RELOCATION WORK described in the "Scope of Work" section (b) in accordance with the plans and specifications.

That the OWNER has the right to delete any or all of the proposed RELOCATION WORK and perform the work with their own forces.

That it shall require the construction project to be prosecuted at all times with reasonable care in accordance with the Standard Specifications for Construction, as modified by such special provisions as may be attached to the construction contract.

That the OWNER and its agents shall be granted access within the limits of the construction projects at all times during the life of the project for the purpose of operating, maintaining, relocating or reconstructing its facilities.

That the OWNER shall be notified at least twenty-four (24) hours in advance of a planned interruption to the normal usage of the OWNER's facilities.

THE OWNER AGREES:

That the plans for the RELOCATION WORK are based on standards which conform to or exceed the minimum requirements of all applicable National, State and Local codes and regulations and that the OWNER is solely responsible for the operation and maintenance of utility plant covered by or completed under this agreement in conformity with such standards.

To notify the MUNICIPALITY within three (3) weeks of bid prices of their intent to delete work from the MINICIPAL contract. If notification is not made within this time period, the OWNER will accept the actual costs based on bid prices.

To purchase all necessary rights-of-way and easements as are required to accommodate the RELOCATION WORK, and to secure such permits and approvals as are required.

To accomplish all RELOCATION WORK described in the "Scope of Work" section ©, furnishing all labor, materials and equipment necessary to complete the work. Copies or facsimiles of such rights, easements and approvals shall be provided to the MUNICIPALITY for assurance of such instruments to its Contractor.

To provide quality control and on-the-job inspection of materials and construction methods used in the RELOCATION WORK described in the "Scope of Work" at no cost to the MUNICIPALITY, and to save the MUNICIPALITY free and harmless from any responsibility therefore, except where the MUNICIPALITY shall disregard written exceptions filed with the MINICIPALITY by the inspector for the OWNER.

To notify the MUNICIPALITY of any substantial changes in the scope of character of the RELOCATION WORK, as soon as the need for such change becomes apparent.

To notify the MUNICIPALITY at least twenty-four (24) hours in advance of beginning or resuming RELOCATION WORK for which reimbursement will be claimed.

To maintain in good and safe condition its plant and facilities located within the project limits and to repair any property damage resulting from such maintenance to the satisfaction of the MUNICIPALITY.

To accept facilities constructed in the RELOCATION WORK described in paragraph (b) immediately upon completion and demonstrated capability of the system to function as intended.

This agreement shall be binding upon the successors and assigns of the respective parties hereto:

IN WITNESS WHEREOF, the parties to this agreement have executed the same this _____ day of _____, AD, _____, the MUNICIPALITY, by Duly Authorized Agent, and the OWNER by its authorized agent.

IN WITNESS WHEREOF:

OWNER:

BY:

(Authorized Agent)

(Title)

IN WITNESS WHEREOF:

OWNER:

BY:

(Authorized Agent)

(Title)

CONSTRUCTION CONDITIONS

1. All communications between the OWNER, contractors, and any other parties having an interest in the construction contract shall be via the MUNICIPALITIES' representative on the project.
2. All logs, trees, underbrush, slash, etc. resulting from clearing operations associated with relocation work shall be burned or otherwise disposed of by the OWNER or its agents, as directed by the MUNICIPALITY.
3. Any burning associated with construction activities or maintenance operations performed under this agreement shall not use tires or similar manufactured products as ignition material. The OWNER is responsible for procuring all permits or rights necessary for such disposal.
4. Abandoned, unused or junk materials associated with the Relocation Work shall be disposed of by the OWNER in a manner approved by the MUNICIPALITY, except that abandoned underground facilities shall become the property of the contractor, and may not be acquired by the OWNER or the MUNICIPALITY.
5. Material disturbed by the placement of underground facilities which will ultimately be located beneath the highway subgrade shall be compacted as required by the highway construction contract and in a manner approved by the MUNICIPALITY.
6. Maintenance of utility plants located within operation limited – access highway facilities must be conducted from outside the limited – access facility where it is reasonably possible to do so.
7. Project signing and traffic control shall be in conformance with the MUTCD, Agency of Transportation Standard E-10, and any additional signing or traffic control deemed necessary. (MUTCD available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402).

Appendix O

Utility Relocation Checklist

UTILITY RELOCATION CHECKLIST

Name of Utility Companies:

Power: _____

Telephone: _____

CTV: _____

Gas: _____

Other: _____

Municipally Owned:

Water: _____

Sewer: _____

Power: _____

Other: _____

YES NO

☐☐

Is utility relocation required?

☐☐

Conceptual plans to utility companies – identify existing utilities.

☐☐

60% plans to utility companies – request for relocation routing (2 month response).

☐☐

Are relocation routes shown on project plans (prior to meeting with property owners?)

☐☐

Is additional right-of-way required to accommodate utility relocation?

☐☐

Are utility companies (one representative) required at property owner visits?

Has utility company representative been notified of:

☐☐

Property owner visits?

☐☐

Necessity Hearing?

☐☐

Is there any reimbursable utility relocation?

If yes, what companies?

☐☐

Are the agreements prepared with utility companies?

- ☐ ☐ Are “Utility Special Provisions” written?
- ☐ ☐ Has the “Clearance Memo” been provided?

Appendix Q

Condemnation of Land by Towns / Municipalities Memo

There are a number of Sections in Title 19 V.S.A., which apply to condemnation of land for highways. Those listed below are sections which the Assistant Attorney General's office considers paramount. The selectmen and town attorney should refer to these sections for the complete context. The term "Selectmen" includes Aldermen and Village Trustees and the term "Town includes city or Village.

Section 708 gives the Selectmen authority to alter or lay out highways on their own motion and without a petition from the citizens.

Section 704 and 710 indicate how Selectmen should cause a survey of needed land to be conducted.

Section 35 gives survey parties employed by the Agency or Towns authority to enter on land to conduct a survey.

Section 709 spells out the contents of a Notice of Hearing giving the time limits and the manner of giving notice.

Section 711 sets the time limit after the Hearing within which the Selectmen must make their report and record the same.

Section 712 indicated how the Selectmen offer payment for damages.

Section 713 sets up the time limits for vacating the land for towns.

Section 714 indicates when the possession goes to the town.

Section 715 and 716 indicates how the Selectmen must record and give notice of completion of projects.

If a person objects to the necessity of a project or is dissatisfied with the amount of compensation awarded:

Sections 725 through 733 explain the manner in which arbitration may be used or the aggrieved party may apply to the District Court for appointment of commissioners to appraise the damages.

Sections 740 through 743 explain appeal procedures to the Superior Court as to necessity for taking the land or compensation for damages.

Section 905 makes sidewalks, bicycle paths and footpaths a lawful highway use within the limits of town highways.

In summary, the Selectmen may cause a survey of land needed for a highway, hold a hearing with a thirty-day notice, issue their findings within sixty days after the hearing, and offer their amount of damages. In any case, compensation must be paid or tendered prior to possession. At this point, they may then proceed with construction unless an aggrieved owner has appealed a question of necessity to the Superior Court.

The proceeding information is furnished only as a guide and any town contemplating acquiring land through condemnation should consult an attorney to insure that the proper notice and procedures are followed according to the Statutes.

Appendix R

Right-of-Way Certification Form

Project Name: _____
Project Number: _____
Right-of-Way Certification

This is to certify that:

1. As shown on Project Plans filed in the Town Clerk's office on _____, all necessary rights-of-way have been acquired including legal and physical possession, the Town of _____, or its assigns, have the right to enter on all lands and the right-of-way is clear.
2. All acquisition was in accordance with current Federal Highway Administration Directives and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.
3. No Acquisition required compliance with the provisions of Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

Following is a summary of the Project acquisitions:

<u>Parcel Number</u>	<u>Owner(s)</u>	<u>Effective Date</u>	<u>Acquisition Type</u>
----------------------	-----------------	-----------------------	-------------------------

Dated at Town of _____, this _____ day of _____, 20____

TOWN OF _____

By: _____

Its: _____

Appendix S

Design Certification / Utility Clearance Form

Municipal Project Manager's Name / Address

Project: _____

Dear Municipal Project Manager,

The noted projects plans, calculations and notes have been reviewed by our personnel and are substantially free from errors and omissions and are in conformance with the appropriate standards and specifications. All appropriate utility clearances have been obtained and are on file.

Sincerely,

Signature of Firm Principle

Title

Date

cc: LTF Project Supervisor

Appendix T

Invitation for Bids Checklist

Invitation for Bids Checklist

ITEMS TO BE NOTED AND/ OR INCLUDED	Check	NA
Description and location of project and who is the issuing party		
Identification of municipal contact person for any and all questions		
Submission requirements for determination of responsiveness		
How and where plans and specifications can be obtained and associated cost		
How and when bids will be received and opened		
Explanation of basis of award & VTrans approved list		
Identification of any known start and finish dates		
Reference to and explanation of debarment and non-collusion statements		
Inclusion of CE, ROW, Utilities Clearance Certificates and all permits		
Reference to and explanation of Federal Form 1273 (Contract Provisions)		
Reference to and explanation of Executive Order 11246		
Reference to and explanation of Davis-Bacon Act, with wage rate schedule		
Reference to and explanation of Buy America Provisions		
Reference to and explanation of Disadvantaged Business Enterprise – CA 110		
Reference to and explanation of Waste Disposal Areas and approvals		
Bid Form detailing the items and quantities to be bid on		
Reference to and explanation of insurance requirements		
Reference to and explanation of any bonding requirements		
Notification of grievance procedures		
Statement RE: estimated quantities and right to reject bids		
Reference to Quality Assurance/Quality Control		
No references to Brand Names		

ITEMS TO BE NOTED AND/ OR INCLUDED	Check	NA
No References to Retainage – Use Mobilization / Demobilization		
Prompt Pay Compliance		
Work Zone Regulations		
NHS Material Testing, if applicable		
Plan for Contaminated Soils		

Appendix U

Sample Construction Contractor Contract

SAMPLE CONTRACT WITH CONSTRUCTION CONTRACTOR

Town of _____
Contract Agreement

This agreement is made this _____ day of _____ 20__ between the Town of _____ and _____, a corporation, incorporated under the laws of the State of Vermont, its successors and assigns hereinafter called the Contractor.

That the Contractor, for and in consideration of the payment or payments herein specified to by the Town, hereby covenants and agrees to furnish and deliver all the materials and to do and perform all the work and labor in the improvement of a certain project in the Town, described as _____, at the unit prices bid by said Contractor for the respective estimated quantities aggregating approximately the sum of AMOUNT and such other items as are mentioned in the original proposal, which proposal and prices named, together with project specifications are made part of this Contract and accepted as such with the verified project drawings.

The Contractor further covenants and agrees that all of said work and labor shall be done and performed in the best and most workmanlike manner and that all and every of said materials and labor shall be in strict and entire conformity, in every respect, with project specifications and project drawings and shall be subject to the inspection and approval of the Town or duly authorized representative. In case any of said material or labor shall be rejected by the Town or representative, as defective or unsuitable, then the said materials shall be removed and replaced with other approved materials and the said labor shall be done anew, to the satisfaction and approval of the Town or representative, at the cost and expense of the Contractor. Project specifications are incorporated herein, made a part of this Contract, and accepted as such.

The Contractor further covenants and agrees that all and every of the said materials shall be furnished and delivered and all and every of the said labor shall be done and performed in every respect to the satisfaction and approval of the Town on or before (completion date) after written notice has been given by the Town's engineer to begin work. IF LIQUIDATED DAMAGES PROVIDED FOR:
It is expressly understood and agreed that in case of the failure on the part of the Contractor, for any reason except as herein provided, to complete the furnishing and delivery of the said materials and the doing and performance of said work on or before DATE the Town shall deduct from any monies due or which may become due the Contractor, or if no monies shall be due, the Town shall have the right to recover the amount of Liquidated damages as provided in the Specification for each and every day elapsing between the time stipulated for the completion and the actual date of completion in accordance with the terms hereof; said deduction to be made or said sums to be recovered, not as a penalty but as liquidated damages; provided, however, that allowance shall be made by the Town at its discretion, over the period hereinbefore specified for the completion of the said work, for causes over which said Contractor has no control and which must delay the completion of the said work, and in such case the Contractor shall become liable for said liquidated damages for delays commencing from the date on which said extended period shall expire.

It is distinctly understood and agreed that no claim for extra work or materials, not specifically provided for herein, done or furnished by the Contractor, will be allowed nor shall the Contractor do any work or furnish any materials not covered by the Specifications and Contract, unless such work is ordered in writing by the Town. In no event shall the Contractor incur any liability by reason of any verbal directions or instructions nor will the Town be liable for any materials furnished or used or for any work or labor done, unless said materials, work or labor are required of said Contractor on written order by the

Town. Any such work or material which may be done or furnished by the Contractor without such written order shall be at said Contractor's own risk, cost and expense and he/she hereby covenants, and agrees that without such written order he/she shall make no claim for compensation for work or materials so done or furnished.

It is further agreed that the said Contractor shall not assign this Contract, nor any part thereof, nor any right to any monies to be paid him hereunder nor shall any part of the work to be done, or material furnished under said Contract by sublet with the consent in writing of the Town.

It is also agreed and understood that the acceptance of the final payment by the Contractor shall be considered as a release in full of all claims against the Town arising out of, or by reason of the work done and materials furnished under this Contract.

The Bonds given by the Contractor, a Performance / Compliance Bond in a sum equal to one-hundred (100) percent, and a Payment / Labor and Materials Bond in the sum equal to one-hundred (100) percent of the total contract price of the work to be done, to secure a proper compliance with the terms and provisions of this Contract, are hereto attached and made a part thereof.

All questions or disputes arising between the parties hereto respecting any matter pertaining to this Contract or any part thereof, or any breach of said Contract shall be referred to (designated and agreed upon party), whose decision and award shall be final, binding and conclusive upon all parties.

The Contractor hereby further agrees to receive the prices set forth in the following Schedule of Prices for full compensation for furnishing all the materials and labor which may be required in the prosecution and completion of the whole of the work to be done under this Contract and in all respects to complete said Contract to the satisfaction of the Town.

(To be fully signed by both parties and then witnessed by notary public)

Attachments as specified in bid documents may include:

Federal Form 1273
Standard Federal EEO Specifications
Special Provisions
Davis Bacon Wage Rate Schedule
Buy America Provisions
Project Specifications
Project Drawings
Bid Proposal
Schedule of Prices
Proof of Contractor Insurance's
(Other Attachments as appropriate to specific project)

Appendix W

FHWA-1273

(Required Contract Provisions, Federal-Aid Construction Contracts)

Federal Form 1273
Required Contract Provisions
FEDERAL-AID CONSTRUCTION CONTRACTS

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- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Payment of Predetermined Minimum Wages
- V. Statements and Payrolls
- VI. Record of Materials, Supplies, And Labor
- VII. Subletting or Assigning The Contract
- VIII. Safety: Accident Prevention
- IX. False Statements Concerning Highway Projects
- X. Implementation of Clean Air Act and Federal Water Pollution Control Act
- XI. Certification Regarding Debarment, Suspension, Ineligibility, And Voluntary Exclusion
- XII. Certification Regarding Use Of Contract Funds For Lobbying

ATTACHMENTS

A. Employment Preference for Appalachian Contracts (included in Appalachian contracts only)

(c) General

1. These contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.
2. Except as otherwise provided for in each section, the contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Required Contract Provisions.
3. A breach of any of the stipulations contained in these Required Contract Provisions shall be sufficient grounds for termination of the contract.
4. A breach of the following clauses of the Required Contract Provisions may also be grounds for debarment as provided in 29 CFR 5.12:
 - Section I, paragraph 2;
 - Section IV, paragraphs 1, 2, 3, 4, and 7;
 - Section V, paragraphs 1 and 2a through 2g.
5. Disputes arising out of the labor standards provisions of Section IV (except paragraph 5) and Section V of these Required Contract Provisions shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor (DOL) as set forth in 29 CFR 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the DOL, or the contractor's employees or their representatives.
6. Selection of Labor: During the performance of this contract, the contractor shall not:
 - a. discriminate against labor from any other State, possession, or territory of the United States (except for employment preference for Appalachian contracts, when applicable, as specified in Attachment A), or
 - b. employ convict labor for any purpose within the limits of the project unless it is labor performed by convicts who are on parole, supervised release, or probation.

II. Nondiscrimination

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630 and 41 CFR 60) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The Equal Opportunity Construction Contract Specifications set forth under 41 CFR 60-4.3 and the provisions of the American Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:
 - a. The contractor will work with the State highway agency (SHA) and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the contract.
 - b. The contractor will accept as his operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, preapprenticeship, and/or on-the-job training."
2. EEO Officer: The contractor will designate and make known to the SHA contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of EEO and who must be assigned adequate authority and responsibility to do so.
3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:
 - a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.
 - b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.
 - c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minority group employees.
 - d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
 - e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.
4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minority groups in the area from which the project work force would normally be derived.
 - a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.

- b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with EEO contract provisions. (The DOL has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)
 - c. The contractor will encourage his present employees to refer minority group applicants for employment. Information and procedures with regard to referring minority group applicants will be discussed with employees.
- 5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:
 - a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
 - b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
 - c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
 - d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of his avenues of appeal.
- 6. Training and Promotion:
 - a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.
 - b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision.
 - c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.
 - d. The contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.
- 7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the contractor either directly or through a contractor's association acting as agent will include the procedures set forth below:
 - a. The contractor will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.
 - b. The contractor will use best efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.
 - c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and

- such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the SHA and shall set forth what efforts have been made to obtain such information.
- d. In the event the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The DOL has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the SHA.
8. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment.
 - a. The contractor shall notify all potential subcontractors and suppliers of his/her EEO obligations under this contract.
 - b. Disadvantaged business enterprises (DBE), as defined in 49 CFR 23, shall have equal opportunity to compete for and perform subcontracts which the contractor enters into pursuant to this contract. The contractor will use his best efforts to solicit bids from and to utilize DBE subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of DBE construction firms from SHA personnel.
 - c. The contractor will use his best efforts to ensure subcontractor compliance with their EEO obligations.
 9. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the SHA and the FHWA.
 - a. The records kept by the contractor shall document the following:
 - i. The number of minority and non-minority group members and women employed in each work classification on the project;
 - ii. The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women;
 - iii. The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and
 - iv. The progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and female representation among their employees.
 - b. The contractors will submit an annual report to the SHA each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. If on-the job training is being required by special provision, the contractor will be required to collect and report training data.

III. Nonsegregated Facilities

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

- a. By submission of this bid, the execution of this contract or subcontract, or the consummation of this material supply agreement or purchase order, as appropriate, the bidder, Federal-aid construction contractor, subcontractor, material supplier, or vendor, as appropriate, certifies that the firm does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The firm agrees that a breach of this certification is a violation of the EEO provisions of this contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability.

- b. As used in this certification, the term “segregated facilities” means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are, in fact, segregated on the basis of race, color, religion, national origin, age or disability, because of habit, local custom, or otherwise. The only exception will be for the disabled when the demands for accessibility override (e.g. disabled parking).
- c. The contractor agrees that it has obtained or will obtain identical certification from proposed subcontractors or material suppliers prior to award of subcontracts or consummation of material supply agreements of \$10,000 or more and that it will retain such certifications in its files.

IV. Payment of Predetermined Minimum Wage

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural minor collectors, which are exempt.)

1. General:

- a. All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week and without subsequent deduction or rebate on any account [except such payroll deductions as are permitted by regulations (29 CFR 3) issued by the Secretary of Labor under the Copeland Act (40 U.S.C. 276c)] the full amounts of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment. The payment shall be computed at wage rates not less than those contained in the wage determination of the Secretary of Labor (hereinafter “the wage determination”) which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor or its subcontractors and such laborers and mechanics. The wage determination (including any additional classifications and wage rates conformed under paragraph 2 of this Section IV and the DOL poster (WH-1321) or Form FHWA-1495) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. For the purpose of this Section, contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act (40 U.S.C. 276a) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section IV, paragraph 3b, hereof. Also, for the purpose of this Section, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in paragraphs 4 and 5 of this Section IV.
- b. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, provided, that the employer’s payroll records accurately set forth the time spent in each classification in which work is performed.
- c. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference in this contract.

2. Classification:

- a. The SHA contracting officer shall require that any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage determination.
- b. The contracting officer shall approve an additional classification, wage rate and fringe benefits only when the following criteria have been met:
 - i. the work to be performed by the additional classification requested is not performed by a classification in the wage determination;
 - ii. the additional classification is utilized in the area by the construction industry;

- iii. the proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
 - iv. with respect to helpers, when such a classification prevails in the area in which the work is performed.
 - c. If the contractor or subcontractors, as appropriate, the laborers and mechanics (if known) to be employed in the additional classification or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the DOL, Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, D.C. 20210. The Wage and Hour Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
 - d. In the event the contractor or subcontractors, as appropriate, the laborers or mechanics to be employed in the additional classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. Said Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary
 - e. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 2c or 2d of this Section IV shall be paid to all workers performing work in the additional classification from the first day on which work is performed in the classification.
- 3. Payment of Fringe Benefits:
 - a. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor or subcontractors, as appropriate, shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly case equivalent thereof.
 - b. If the contractor or subcontractor, as appropriate, does not make payments to a trustee or other third person, he/she may consider as a part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.
- 4. Apprentices and Trainees (Programs of the U.S. DOL) and Helpers:
 - a. Apprentices:
 - i. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the DOL, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice.
 - ii. The allowable ratio of apprentices to journeyman-level employees on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate listed in the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor or subcontractor is performing construction on a project in

a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman-level hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

- iii. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator for the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.
- iv. In the event the Bureau of Apprenticeship and Training, or a State apprenticeship agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor or subcontractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the comparable work performed by regular employees until an acceptable program is approved.

b. Trainees:

- i. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the DOL, Employment and Training Administration.
- ii. The ratio of trainees to journeyman-level employees on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.
- iii. Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman-level wage rate on the wage determination which provides for less than full fringe benefits for apprentices, in which case such trainees shall receive the same fringe benefits as apprentices.
- iv. In the event the Employment and Training Administration withdraws approval of a training program, the contractor or subcontractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Helpers:

Helpers will be permitted to work on a project if the helper classification is specified and defined on the applicable wage determination or is approved pursuant to the conformance procedure set forth in Section IV.2. Any worker listed on a payroll at a helper wage rate, who is not a helper under an approved definition, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

5. Apprentices and Trainees (Programs of the U.S. DOT):

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the

particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

6. Withholding:

The SHA shall upon its own action or upon written request of an authorized representative of the DOL withhold, or cause to be withheld, from the contractor or subcontractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements which is held by the same prime contractor, as much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the SHA contracting officer may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

7. Overtime Requirements:

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, watchmen, or guards (including apprentices, trainees, and helpers described in paragraphs 4 and 5 above) shall require or permit any laborer, mechanic, watchman, or guard in any workweek in which he/she is employed on such work, to work in excess of 40 hours in such workweek unless such laborer, mechanic, watchman, or guard receives compensation at a rate not less than one-and-one-half times his/her basic rate of pay for all hours worked in excess of 40 hours in such workweek.

8. Violation:

Liability for Unpaid Wages; Liquidated Damages: In the event of any violation of the clause set forth in paragraph 7 above, the contractor and any subcontractor responsible thereof shall be liable to the affected employee for his/her unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer, mechanic, watchman, or guard employed in violation of the clause set forth in paragraph 7, in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by the clause set forth in paragraph 7.

9. Withholding for Unpaid Wages and Liquidated Damages:

The SHA shall upon its own action or upon written request of any authorized representative of the DOL withhold, or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 8 above.

V. Statements And Payrolls

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural collectors, which are exempt.)

1. Compliance with Copeland Regulations (29 CFR 3):

The contractor shall comply with the Copeland Regulations of the Secretary of Labor which are herein incorporated by reference.

2. Payrolls and Payroll Records:

- a. Payrolls and basic records relating thereto shall be maintained by the contractor and each subcontractor during the course of the work and preserved for a period of 3 years from the date of completion of the contract for all laborers, mechanics, apprentices, trainees, watchmen, helpers, and guards working at the site of the work.
- b. The payroll records shall contain the name, social security number, and address of each such employee; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalent thereof the types

described in Section 1(b)(2)(B) of the Davis Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. In addition, for Appalachian contracts, the payroll records shall contain a notation indicating whether the employee does, or does not, normally reside in the labor area as defined in Attachment A, paragraph 1. Whenever the Secretary of Labor, pursuant to Section IV, paragraph 3b, has found that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis Bacon Act, the contractor and each subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and show the cost anticipated or the actual cost incurred in providing benefits. Contractors or subcontractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprentices and trainees, and ratios and wage rates prescribed in the applicable programs.

- c. Each contractor and subcontractor shall furnish, each week in which any contract work is performed, to the SHA resident engineer a payroll of wages paid each of its employees (including apprentices, trainees, and helpers, described in Section IV, paragraphs 4 and 5, and watchmen and guards engaged on work during the preceding weekly payroll period). The payroll submitted shall set out accurately and completely all of the information required to be maintained under paragraph 2b of this Section V. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal stock number 029-005-0014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.
- d. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his/her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
 - i. that the payroll for the payroll period contains the information required to be maintained under paragraph 2b of this Section V and that such information is correct and complete;
 - ii. that such laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR 3;
 - iii. that each laborer or mechanic has been paid not less than the applicable wage rate and fringe benefits or cash equivalent for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- e. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 2d of this Section V.
- f. The falsification of any of the above certifications may subject the contractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.
- g. The contractor or subcontractor shall make the records required under paragraph 2b of this Section V available for inspection, copying, or transcription by authorized representatives of the SHA, the FHWA, or the DOL, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the SHA, the FHWA, the DOL, or all may, after written notice to the contractor, sponsor, applicant, or owner, take such actions as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

VI. Record of Materials, Supplies, And Labor

- 1. On all Federal-aid contracts on the National Highway System, except those which provide solely for the installation of protective devices at railroad grade crossings, those which are constructed on a force account

or direct labor basis, highway beautification contracts, and contracts for which the total final construction cost for roadway and bridge is less than \$1,000,000 (23 CFR 635) the contractor shall:

- a. Become familiar with the list of specific materials and supplies contained in Form FHWA-47, "Statement of Materials and Labor Used by Contractor of Highway Construction Involving Federal Funds," prior to the commencement of work under this contract.
 - b. Maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form FHWA-47, and in the units shown on Form FHWA-47.
 - c. Furnish, upon the completion of the contract, to the SHA resident engineer on Form FHWA-47 together with the data required in paragraph 1b relative to materials and supplies, a final labor summary of all contract work indicating the total hours worked and the total amount earned.
2. At the prime contractor's option, either a single report covering all contract work or separate reports for the contractor and for each subcontract shall be submitted.

VII. Subletting or Assigning the Contract

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the State. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635).
 - a. "Its own organization" shall be construed to include only workers employed and paid directly by the prime contractor and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor, assignee, or agent of the prime contractor.
 - b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid on the contract as a whole and in general are to be limited to minor components of the overall contract.
2. The contract amount upon which the requirements set forth in paragraph 1 of Section VII is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.
3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the SHA contracting officer determines is necessary to assure the performance of the contract.
4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the SHA contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the SHA has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

VIII. Safety: Accident Prevention

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the SHA contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.
2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and

health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

IX. False Statements Concerning Highway Projects

- In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, the following notice shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS

18 U.S.C. 1020 reads as follows:

- *“Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or*
- *Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or*
- *Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;*
- *Shall be fined not more than \$10,000 or imprisoned not more than 5 years or both.”*

X. Implementation of Clean Air Act And Federal Water Pollution Control Act

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$100,000 or more.)

By submission of this bid or the execution of this contract, or subcontract, as appropriate, the bidder, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub.L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.
2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.
3. That the firm shall promptly notify the SHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

4. That the firm agrees to include or cause to be included the requirements of paragraph 1 through 4 of this Section X in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

XI. Certification Regarding Debarment, Suspension, Ineligibility And Voluntary Exclusion

1. Instructions for Certification – Primary Covered Transactions:
(Applicable to all Federal-aid contracts – 49 CFR 29)
 - a. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
 - b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
 - c. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
 - d. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
 - e. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.
 - f. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
 - g. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
 - h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.
 - i. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
 - j. Except for transactions authorized under paragraph f of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is

suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Y * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - b. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1b of this certification; and
 - d. Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Y * * * *

2. Instructions for Certification – Lower Tier Covered Transactions:

(Applicable to all subcontracts, purchase orders and other lower tier transactions of \$25,000 or more – 49 CFR 29)

- a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.
- d. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “primary covered transaction,” “participant,” “person,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Z * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion–Lower Tier Covered Transactions:

- 1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- 2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Y * * * *

(c) **Certification Regarding Use Of Contract Funds For Lobbying**

(Applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 – 49 CFR 20)

- 1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:
 - a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this

transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

Attachment A – Employment Preference For Appalachian Contracts

(Applicable to Appalachian contracts only.)

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:
 - a. To the extent that qualified persons regularly residing in the area are not available.
 - b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.
 - c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph 1c shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph 4 below.
2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, © the date on which he estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, he shall promptly notify the State Employment Service.
3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.
4. If, within 1 week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph 1c above.
5. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

Appendix X

Executive Order 11246

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY
CONSTRUCTION CONTRACT SPECIFICATIONS
(EXECUTIVE ORDER 11246)

1. As used in these specifications:
 - a. "Covered Area" means the geographical area described in the solicitation from which this contract resulted.
 - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority.
 - c. "Employer Identification Number" means the Federal Social Security Number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

A Minority Group Member is:

...American Indian or Alaskan Native

Consisting of all persons having origins in any of the original people of North American and who maintain cultural identification through tribal affiliations or community recognition.

...Black

Consisting of all persons having origins in any of the Black racial groups of Africa.

...Asian or Pacific Islander

consisting of all persons having origins in any of the original people of the Far East, Southeast Asia, the Indian Sub-Continent or the Pacific Islands. This area includes China, India, Japan, Korea, the Philippines and Samoa.

...Hispanic

consisting of all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin.

...Cape Verde an

consisting of all persons having origins in the Cape Verde Islands.

...Portuguese

consisting of all persons of Portuguese, Brazilian or other Portuguese culture or origin.

2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000.00 the provisions of these specifications and the notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in the Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or subcontract participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or subcontractor's failure to make good faith efforts to achieve the Plan goals and timetables.
4. The Contractor shall implement the specific affirmative action standards provided in Paragraphs 7a through p of these specifications. The goals set for the Contractor in the solicitation from which this contract resulted are expressed as percentages in the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the Contractor has a collective bargaining agreement to refer either minority or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:
 - a. Ensure and maintain a working environment free of harassment, intimidation and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment with specific attention to minority or female individuals working at such sites or in such facilities.
 - b. Establish and maintain a current list of minority and female recruitment sources,

provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available and maintain a record of the organizations' responses.

- c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason hereof, along with whatever additional actions the Contractor may have taken.
- d. Provide immediate written notifications to the Regional Director when the union or unions, with which the Contractor has a collective bargaining agreement, have not referred to the Contractor a minority person or woman sent by the Contractor or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under Paragraph 7b above.
- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, Supervisors etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, and providing written notification to, and discussing the Contractor's EEO policy with, other Contractors and subcontractors with whom the Contractor anticipates doing business.

- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notifications to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
 - j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's workforce.
 - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
 - l. Conduct, at least annually, an inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
 - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment-related activities to ensure that the EEO policy and Contractor's obligations under these specifications are being carried out.
 - n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (Paragraph 7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under Paragraph 7a through p of these Specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply,

however, is the Contractor's, and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's non-compliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved this goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is under-utilized).
10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin.
11. The Contractor shall not enter into any subcontract with any person for firm debarred from Government contracts pursuant to Executive Order 11246.
12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, terminations and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in Paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
14. The Contractor shall designate a responsible official to monitor all employment-related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application or requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

**NOTICE OF REQUIREMENTS FOR AFFIRMATIVE ACTION TO ENSURE EQUAL
EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)**

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Economic Areas	Timetables	Goals for Minority participation for each trade (%)	Goals for Female participation in each trade (%)
Entire State of Vermont			
<u>Vermont</u> 003 Burlington, VT Non-SMSA Counties NH Coos; NH Grafton; NH Sullivan; VT Addison; VT Caledonia; VT Chittenden; VT Essex; VT Franklin; VT Grand Isle; VT Lamoille; VT Orange; VT Orleans; VT Rutland; VT Washington; VT Windsor	Indefinite	0.8	6.9
<u>Connecticut</u> (Mass) 006 Hartford – New Haven Springfield, CT-MA Non-SMSA Counties CT Litchfield; CT Windham; MA Franklin; NH Cheshire; VT Windham	Indefinite	5.9	
<u>New York</u> 007 Albany – Schnectady – Troy, NY Non-SMSA Counties NY Clinton; NY Columbia; NY Essex; NY Fulton; NY Greene; NY Hamilton; NY Sohoharie; NY Warren; NY Washington; VT Bennington	Indefinite	2.6	

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-federally involved construction. The Contractor's compliance with the Executive Order and the regulation in CFR Part 60-4 shall be based

on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3 (a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within ten working days of award of any construction subcontract in excess of \$10,000.00 at any tier for construction work under the contract resulting from this solicitation. The notifications shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; and the geographical area in which the subcontract is to be performed.
4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed giving the state, county and city, if any)

APPENDIX Y

State of Vermont
Agency of Transportation

October 2008
CA-110

DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY CONTRACT REQUIREMENTS

1. Policy. Is it the policy of the United States Department of Transportation (USDOT) that Disadvantaged Business Enterprise (DBE) as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds. Consequently, the DBE requirements of 49 CFR Part 26 and 23 CFR, Chapter 1, Part 230, Subpart b apply to this contract.
2. DBE Obligation. The State and its Contractors agree to ensure that DBEs as defined in 49 CFR Part 26, have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. In this regard, the State and its Contractors shall not discriminate on the basis of race, color, sex, national origin, physical disability or veteran status in the award and performance of USDOT assisted contracts.
3. Sanctions for Noncompliance. The Contractor is hereby advised that failure of the Contractor, or any Subcontractor performing work under this contract, to carry out the requirements set forth in paragraphs 1 and 2 above shall constitute a breach of contract and after the notification of the Vermont Agency of Transportation, Secretary of Transportation, may result in termination of this contract by the State or such remedy as the State deems necessary.
4. Inclusion in Subcontracts. The Contractor shall insert in each of its subcontracts this Disadvantaged Business Enterprise (DBE) Policy and also a clause requiring its subcontractors to include this same Policy in any lower tier subcontracts which they may enter into, together with a clause requiring the inclusion of the Policy in any further subcontract that may in turn be made. This Policy shall not be incorporated by reference.
5. The Agency's 2009 Overall Annual Goal for DBE participation on FHWA-funded projects is 5.5%. The Agency's 2009 Overall Annual Goal for DBE participation on FTA-funded projects is 3.77%.

Appendix Z

Permits and Clearances Checklist

VTrans – Local Transportation Facilities
Permits and Clearances Checklist

Project Name & Number: _____

<u>Permit / Clearance</u>		<u>Date of Document or N/A</u>
Section 106 (Historic & Archaeological Review)	<input type="checkbox"/>	_____
Executive Order 52 (Agricultural Soils & Farmlands)	<input type="checkbox"/>	_____
Section 4(f) / 6(f) Review	<input type="checkbox"/>	_____
Wetlands Conditional Use Determination (CUD)	<input type="checkbox"/>	_____
Lakes and Ponds Permit	<input type="checkbox"/>	_____
Threatened & Endangered Species Permit (T&E)	<input type="checkbox"/>	_____
Environmental Document (CE, EA or EIS)	<input type="checkbox"/>	_____
Design Exception Documentation	<input type="checkbox"/>	_____
ADA Exception Documentation	<input type="checkbox"/>	_____
Storm Water Discharge Permit	<input type="checkbox"/>	_____
Stream Alteration Permit	<input type="checkbox"/>	_____
Section 401 Permit, Water Quality	<input type="checkbox"/>	_____
Section 404 Permit, Discharge and Fill Regulation	<input type="checkbox"/>	_____
Navigable Waters Permit	<input type="checkbox"/>	_____
Executive Order 22988, Flood Plain Management	<input type="checkbox"/>	_____
Act 250 Permit, Land Use & Development Permit	<input type="checkbox"/>	_____
Railroad Agreement	<input type="checkbox"/>	_____
Utility Clearance	<input type="checkbox"/>	_____
Right-of-Way Clearance	<input type="checkbox"/>	_____
Property Owner Accommodations (landscaping, fencing, etc.)	<input type="checkbox"/>	_____

If the noted Permit or Clearance has been obtained, check the box and write in the date of such document. If the noted Permit or Clearance has NOT been obtained, circle it until such time it can be checked off and dated. If the noted Permit or Clearance is not needed, write in N/A on the provided line. All permit conditions need to be documented for inclusion into the contract documents.

Appendix AA

Material Sampling and Testing Frequency List

Material Testing and Frequency Guide

(UPDATE COMING SOON)

<u>Material</u>	<u>Sampling Location</u>	<u>Acceptance Frequency</u>
Sand Borrow	In Place	1 every 2,500 cy
Granular Borrow	In Place	1 every 5,000 cy
Gravel Backfill for Slope Stabilization	In Place	1 every 5,000 cy
Compaction:		
Embankment	In Place	1 every 3,000 cy
Subgrade	In Place	5 per mile separate roadbed
Backfill for Structures	In Place	1 every third layer*
*May also be applicable to sand borrow, granular borrow or granular backfill for structures.		
Subbase of:		
Gravel	In Place	1 every 5,000 cy
Crushed Gravel	In Place	1 every 5,000 cy
Dense Graded	In Place	1 every 5,000 cy
Plant Mixed Base, Coarse	Truck at Plant	1 every 500 ton for first 1000 ton, 1 every 1000 ton thereafter
Plant Mixed Base, Aggregates	Stockpiles at Plant	1 set every 10,000 tons of mix
Aggregate Surface Course	In Place	1 every 5,000 cy
Aggregate shoulders	In Place	1 every 6,250 ton
Bit. Surf. Treatment:		
Peastone, Grits & Sand	Truck	1 every 800 cwt (Bit.)/type
Tar Emulsion	Transport, Tank, Drum, Distributor	1 every 800 cwt
Cutback Asphalt		
Emulsified Asphalt		
Asphalt Cement	Retention Tank Feed Line	1 every 750 tons of mix
Bit. Concrete Pavement	Truck at Plant	1 every 500 ton for first 1000 ton, 1 every 1000 ton thereafter
Aggregates	Stockpiles at Plant	1 set every 10,000 tons of mix
Density/Air Voids	In Place	2 every lane mile of separate roadway
1-Course Cement Con. Pave.		
Beams and Yield	Mixer at Project	1 every 400 cy PCC/Class
Slump and Air	Mixer at Project	1 every 50 cy
Depth	In Place	1 every 1,000 Lane Feet
Bit. Concrete Pavement	Truck at Plant	1 every 500 ton for first 1000 ton, 1 every 1000 ton thereafter
Aggregates	Stockpiles at Plant	1 set every 10,000 tons of mix

Portland Cement	Transport-Silo-Bag-Weigh Hopper at Plant	1 every 200 cy PCC/Class
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<u>Material</u>	<u>Sampling Location</u>	<u>Acceptance Frequency</u>
Structural Concrete Cylinders	Mixer at Project	1 every 100 cy PCC/Class**
Slump, Air, Yield	Mixer at Project	1 every 40 cy
Aggregates	Stockpile-Conveyor-Belt-Bin at Plant	1 set every 200 cy PCC/Class

** A minimum of one pair of cylinders, slump test and air test is required for each project.

Reinforcing Steel (Epoxy Coated Only)	Stockpiles at Project	1 every 50 ton/size/grade
Mixed Paints, Film Thickness	Original Container In Place	1/type/batch 1 every structure
Paint for Pavement Markings	Original Container	1/type/batch
Culvert and Storm Drains	Stockpiles at Plant	NA

Appendix BB

Project Certification / Municipality Project Acceptance Form

Local Transportation Facilities Program Manager
Vermont Agency of Transportation
One National Life Drive
Montpelier, VT 05633-5001

Project: _____

Dear LTF Program Manager,

A final inspection of the project noted above has been completed. The work on the Project has been performed within the requirements of all federal, state, and local laws, ordinances and regulations applicable to the Project as certified by [CONSTRUCTION RESIDENT ENGINEER] and is hereby accepted by the [MUNICIPALITY] as of this date.

Sincerely,

Signature of Authorized Municipal Official

Title

Date

APPENDIX CC

WORK ZONE SAFETY & MOBILITY GUIDANCE DOCUMENT

August 2007



Prepared by:

Vermont Agency of Transportation



The following document was drafted in response to updates made to the work zone regulations at 23 CFR 630 Subpart J, published by the Federal Highway Administration. This document applies to all federal aid projects that have a pre-final contract administration/step submittal date after January 1, 2008.

Work Zone Safety and Mobility Vision

Current and future work zone safety and mobility issues mean that transportation practitioners need to minimize and manage the work zone impacts of transportation projects. In order to meet safety and mobility needs during highway maintenance and construction, and to meet the expectations of the traveling public, it is important to systematically analyze and assess the work zone impacts of projects and take appropriate action to manage these impacts.

The following has been adopted as the Vermont Agency of Transportation's (VTrans) work zone safety and mobility vision statement: *To provide optimum safety for workers and the traveling public while maintaining acceptable levels of mobility in an efficient environment for the contractors to complete the project work in accordance with their contracts.*

Work Zone Safety and Mobility Goals and Strategies

Goal: To provide a safe work zone for motorists, pedestrians, bicyclists (the traveling public) and construction personnel.

Strategy: Development of site-specific traffic control plans, while ensuring compliance with the Manual on Uniform Traffic Control Devices (MUTCD) and state design standards and specifications.

Goal: To minimize construction-related delays.

Strategy: Construction-related delays will be monitored. A change to the traffic management plan will be considered for construction-related delays greater than ten minutes.

Goal: To gain further knowledge of work zone procedures applicable to the State of Vermont.

Strategy: Summarize the work zone field evaluations to identify the effectiveness of implemented safety measures and to improve future Transportation Management Plans (TMP).

Goal: To ensure that the appropriate personnel have the necessary knowledge, skills, and abilities to design and/or implement a TMP.

Strategy: Management will be responsible for ensuring that their personnel has been provided appropriate training in accordance with their defined roles. Training to include but not limited to: flagger certification, NHI courses, AGC training, and the Vermont Local Roads Program courses.

Project Classification

The purpose of the Work Zone Safety and Mobility Guidance document is to allow VTrans to better anticipate the impacts associated with individual projects. Examples of impacts include internal project coordination, project scheduling and overall cost. Every federally funded project will require a TMP. The classification of the project will determine the complexity of the TMP. All transportation projects must be classified into one of three types of projects: significant, moderate, or minor projects. To accurately classify a project, several design characteristics must be analyzed to provide **guidance** in determining the appropriate project classification. The following characteristics should be evaluated when determining any project classification. These characteristics include but are not limited to:

- Project Location (Urban/Rural Setting)
- Primary Network (Interstate, Interchanges, Major State Roads, Major Intersections, NHS, Truck Network)
- Construction Duration (Months, Years)
- Access Management Category (Driveway Density, Business/Industry Density)
- Traffic Volumes (Average Annual Daily Traffic, Peak Hour Traffic, Existing Crash Rates, Car-Truck-Pedestrian-Bicycle Volumes)
- Proximity To Other Construction Projects
- Available Detour Routes

A project classification should be identified by the appropriate Project Manager⁴, and confirmed by their respective Program Manager as early as the scoping process. This classification should be analyzed periodically throughout the design process to ensure that any design changes or site characteristic changes will not require a classification modification. Project classification is used to help identify the impacts associated with different types of transportation projects. This classification is used to determine what TMP should be applied to the project. The following definitions closely follow FHWA's Work Zone Self Assessment, http://www.ops.fhwa.dot.gov/wz/docs/wz-sa-docs/sa_guide_s4.htm.

Significant Projects: Significant projects have a high level of public interest and will likely impact a large number of travelers. This impact must be analyzed individually and also in combination with concurrent active projects. It will have moderate to high user-cost impacts and the duration is usually moderate to long. These characteristics create work zone impacts that fall outside of the typical work zone safety and mobility thresholds. Examples of this

⁴ Please note that the position titles used in this document are typical Program Development Division titles. Applicable Operations Division titles as well as alternate VTrans Division titles may be substituted as necessary.

work type may include: major corridor reconstruction, high impact intersection reconstruction, full closures on high volume facilities, major bridge reconstruction or repair, repaving projects that require long term lane closures, etc (e.g. Shelburne-South Burlington US 7 Reconstruction Project). It is important to note that significant projects are unique in that they have considerable impacts to the project area as well as the surrounding community.

Moderate Projects: Moderate projects have the potential to affect the level of public interest and may impact a modest number of commuters. These projects would include typical roadway, bridge, and paving projects.

Minor Projects: Minor projects have a minimal impact to the traveling public and a short duration. Typical projects within this category include sign installation, bridge inspection, pavement marking, and various maintenance activities.

Transportation Management Plans (TMPs)

TMPs are strategies/methodologies that will be implemented to ensure safe and mobile work zones within transportation projects. The project classification will determine the detail level required for the TMP. There are three major components of a TMP;

Temporary Traffic Control Plan (TTC): A TTC plan describes temporary traffic control measures to be used for facilitating road users through a work zone or an incident area. The TTC plan plays a vital role in providing continuity of reasonably safe and efficient road user flow and highway worker safety when a work zone, incident, or other event temporarily disrupts normal road user flow. The TTC plan shall be consistent with the provisions of the MUTCD and AASHTO Roadside Design Guide.

Transportation Operations Component (TO): The TO component shall include the identification of strategies to mitigate impacts of the work zone on the operation of the transportation system within the work zone impact area. The work zone impact area consists of the immediate work zone as well as affects to the surrounding roadways and communities. Examples of practices that may be used to satisfy the TO component may be found at http://www.ops.fhwa.dot.gov/wz/rule_guide/sec6.htm#sec63.

Public Information Component (PI): The PI component shall include communication strategies that seek to inform the general public of work zone impacts and the changing condition of the project. The general public may include road users, area residences and businesses, and other public entities. Examples of communications strategies that may be used to satisfy the PI component may be found at http://www.ops.fhwa.dot.gov/wz/rule_guide/sec6.htm#sec63.

Significant Projects: The TMP for significant projects shall consist of a TTC, a TO, and a PI.

Moderate/Minor Projects: The TMP for moderate and minor projects shall consist of a TTC. A TO and a PI are not required, but may be applicable to certain projects as determined by the Project Manager.

Design Strategies

The development of a TMP is an iterative process that may vary significantly between projects. Work on a TMP should begin early in the project development process. There are numerous resources available to the designer to assist in the development of this plan: several of these are listed in the reference section of this document. The following outlines the key components of the TMP development process.

Preliminary Data Collection: As early as scoping, the project design team collects, analyzes, and documents all applicable project data.

Determine Project Classification: A project classification is determined based on the initial data that was collected. The project classification defines what components are required in the TMP.

Develop TMP: Work zone management strategies should be identified based on the project characteristics and used to develop all necessary aspects of the TMP. Applicable resources should be contacted during this step to obtain their input. This may include utilization of previous work zone feedback provided by the Construction Section. Plans and contract documents shall be based on standard specifications and include necessary pay items.

Update/Revise TMP: As a project progresses through all of the design stages the TMP should be re-evaluated to ensure that any project changes do not affect the TMP. It is possible that the project classification could change during the project design stages.

Finalize TMP: Ensure that the contract plans, special provisions, and estimate include all of the applicable elements of the TMP and allow the flexibility to develop or modify a TMP.

Roles and Responsibilities

Step 1: A preliminary analysis will be performed by the ***Design Team*** to determine project classification. This preliminary analysis will be documented in the project's design file.

Step 2: The ***Project Manager*** will have the responsibility of monitoring the project and proposed classification and informing the respective ***Program Manager***.

- Step 3: The ***Design Team*** will develop a transportation management plan. The ***Project Manager*** will monitor the classification status. If there are significant changes, the project classification may be modified.
- Step 4: The ***Construction Resident Engineer*** will be responsible for identifying and documenting deficiencies in the TMP that compromise the effectiveness of the work zone and coordinating any improvements with the Contractor/State safety representative. Examples of data that may be included in the work zone documentation includes; crashes or other traffic incidents, traffic delay, traffic conflicts, and public comments. The ***Project Manager*** may assist in addressing any proposed modifications to the TMP during the construction process.
- Step 5: The ***Regional Construction Engineer*** will complete a work zone summary of TMP effectiveness based on the work zone documentation and any applicable work zone reviews performed by Traffic Operations.
- Step 6: The ***Work Zone Safety and Mobility Committee*** will consist of representatives from multiple sections within VTrans. This committee will review the work zone summary and will be responsible for updating the Work Zone Safety and Mobility Guidance document based on feedback from the year's construction projects. This committee will be responsible for sharing all applicable information throughout the Agency as well as with additional working groups and committees.

Application/Feedback

The Construction Engineer will submit a summary of TMP effectiveness and recommendations for improvements at the end of the construction season based on the work zone documentation provided by the Regional Engineers. The Work Zone Safety and Mobility Committee will meet annually to discuss these summaries. These summaries will serve to identify common TMP practices that are not working effectively, and will also assist in identifying TMP practices that are successful. The Work Zone Safety and Mobility Guidance document and supporting documentation will be revised to reflect the field evaluation summaries.

References

A Policy on Geometric Design of Highways and Streets. American Association of State Highway and Transportation Officials, Current Edition.

Developing and Implementing Transportation Management Plans for Work Zones. U.S. Department of Transportation Federal Highway Administration, December 2005.

Engineering Operations Manual. Vermont Agency of Transportation, Current Edition.

Highway Capacity Manual. Transportation Research Board of the National Academies, Current Edition.

Implementing the Rule on Work Zone Safety and Mobility. U.S. Department of Transportation Federal Highway Administration, September 2005.

Manual on Uniform Traffic Control Devices for Streets and Highways. U.S. Department of Transportation Federal Highway Administration, Current Edition.

Road Design Manual. Vermont Agency of Transportation, Current Edition.

Roadside Design Guide. American Association of State Highway and Transportation Officials, Current Edition.

Standard Specifications for Construction. Vermont Agency of Transportation, Current Edition.

Structures Manual. Vermont Agency of Transportation, Current Edition.

The State of Vermont Agency of Transportation Safety Manual. Vermont Agency of Transportation, Current Edition.

Traffic Design Manual. Vermont Agency of Transportation, Current Edition.

“Vermont Agency of Transportation Standard Drawings.” Vermont Agency of Transportation, Current Edition.

Work Zone Impacts Assessment: An Approach to Assess and Manage Work Zone Safety and Mobility Impacts of Road Projects. U.S. Department of Transportation Federal Highway Administration, May 2006.

Work Zone Public Information and Outreach Strategies. U.S. Department of Transportation Federal Highway Administration, November 2005.

APPENDIX EE

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

a _____, hereinafter called Principal,
(Corporation, Partnership or Individual)

and _____
(Name of Surety)

(Address of Surety)

hereinafter called Surety, are held and firmly bound unto

(Name of Owner)

(Address of Owner)

hereinafter called Owner, in the penal sum of _____ Dollars, \$(_____) in
lawful money of the United States, for the payment of which sum well and truly to be
made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these
presents.

The condition of this obligation is such that whereas, the Principal entered into a certain contract with the Owner, dated the _____ day of _____, 2009, a copy of which is hereto attached and made a part hereof for the construction of:

Now, therefore, if the principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions and agreements of said contract during the original term thereof, and any extensions thereof which may be granted by the Owner, with or without notice to the Surety, and if they shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the Owner from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

Provided, further, that the said Surety for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the Work to be performed thereunder or the Specifications accompanying the same shall in any wise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the Work or to the Specifications.

Provided, further, that no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in ____ counterparts,
(No.)

each one of which shall be deemed an original, this the ____ day of
_____, 20__.

ATTEST:

Principal

(Principal Secretary)

(SEAL)

By: _____(s)

Address: _____

Witness as to Principal

Address

Surety

ATTEST:

By: _____

Attorney-in-Fact

Witness as to Surety

Address

Address

NOTE: Date of Bond must not be prior to date of Contract.

If Contractor is Partnership, all partners should execute Bond.

IMPORTANT: Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570) as amended and be authorized to transact business in the State where the Project is located.

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

a _____, hereinafter called Principal,
(Corporation, Partnership or Individual)

and _____
(Name of Surety)

(Address of Surety)

hereinafter called Surety, are held and firmly bound unto

(Name of Owner)

(Address of Owner)

Hereinafter called Owner, in the penal sum of _____ Dollars, \$(_____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

The Condition of this obligation is such that whereas, the Principal entered into a certain contract with the Owner, dated the _____ day of _____, 20____, a copy of which is hereto attached and made a part hereof for the construction of:

Now, Therefore, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the Work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such Work and all insurance premiums on said Work, and for all labor performed in such Work whether by subcontractor or otherwise, then this obligation shall be void; otherwise to remain in force and effect.

Provided, further, that the said Surety for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the Work to be performed thereunder or the Specifications accompanying the same shall in any way affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the Work or to the Specifications.

Provided, further, that no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

In Witness Whereof, this instrument is executed in ____ counterparts,

(No.)

each one of which shall be deemed an original, this the ____ day of _____,
20__.

ATTEST:

Principal

(Principal Secretary)

By: _____(s)

(SEAL)

Address: _____

Witness as to Principal

Address

Surety

ATTEST:

By: _____

Attorney-in-Fact

Witness as to Surety

Address

Address

NOTE: Date of Bond must not be prior to date of Contract.

If Contractor is Partnership, all partners should execute Bond.

IMPORTANT: Surety companies executing Bond must appear on the Treasury Department's most current list (Circular 570) as amended and be authorized to transact business in the State where the Project is located.

APPENDIX FF

PROMPT PAY COMPLIANCE

Need to add a section on Prompt Pay Compliance. Here is the definition for Prompt Pay Compliance: Vermont's Prompt Pay Statute requires payment from primes to subs within 7 days of primes receiving payment. Vermont State Statutes, Commerce and Trade, T.9§4003 provides: "Notwithstanding any contrary agreement, when a subcontractor has performed in accordance with the provisions of its contract, a contractor shall pay a subcontractor, and each subcontractor shall in turn pay its subcontractors, the full or proportional amount received for each such subcontractor's work and materials based on work completed or service provided under the subcontractor, seven days after receipt of each progress or final payment or seven days after receipt of the subcontractor's invoice, whichever is later."

APPENDIX GG

CHANGE ORDER

Date: _____

Change Order No: _____

Name of Project: _____

Municipality: _____

Contractor: _____

The following changes are hereby made to the Contract:

Justifications:

Change to Contract Price: \$ _____

Original Contract Price: \$ _____

Current Contract Price adjusted by previous Change Order: \$ _____

The Contract Price due to this Change Order will be (increased) decreased by: \$ _____

New Adjusted Contract Price: \$ _____

Change to Contract Time: _____

The Contract Time will be (increased) decreased by _____ Calendar days

The date for completion of all work will be _____

APPROVALS

Contractor: _____

Construction Inspector: _____

Municipality: _____

VTrans Project Manager: _____